

353.971
M58
v.1

MESSAGES

OF THE

GOVERNORS OF MICHIGAN

VOL. I

Michigan. Governor.

LEWIS CASS
GEORGE B. PORTER
STEVENS T. MASON
WILLIAM WOODBRIDGE
JOHN S. BARRY

Edited by
GEORGE N. FULLER



Published by
The Michigan Historical Commission
Lansing
1925

MICHIGAN HISTORICAL COMMISSION

A State Department of History and Archives
Organized May 28, 1913.

MEMBERS

Hon. Alexander J. Groesbeck, Governor of Michigan
Clarence M. Burton, M. A., Detroit, *President*
William F. Murphy, S. T. D., Detroit, *Vice President*
William L. Jenks, M. A., Port Huron
William L. Clements, B. S., Bay City
Claude H. Van Tyne, Ph. D., Ann Arbor
Augustus C. Carton, Lansing

EXECUTIVE OFFICERS

George N. Fuller, Ph. D., *Secretary*
Percy H. Andrus, *Ass't Secretary*
Floyd B. Streeter, M. A., *Archivist*
Marie B. Ferrey, *Curator*

PREFACE

THIS volume includes the principal messages of governors Cass, Porter, Mason and Woodbridge, covering the period from 1824 to 1841 inclusive. Only certain minor messages have been omitted, which seemed hardly important enough to print; such are the vast majority announcing or recommending appointments, veto messages in which no reason for veto is given, and messages of transmittal. All messages of this sort, however, in which the Governor has made important comment, have been included.

The value of such a compilation is obvious. It is of course not primarily for the special student. The researcher will naturally go to the originals, of which fairly complete sets are accessible in several Michigan libraries. Moreover, for research purposes the messages are often less important than other materials contained in the volumes from which the messages are taken; as, for example, the general proceedings of the legislature,—reports of the various departments, boards, commissions, and institutions, the numerous committee reports, and particularly the documents and communications transmitted by the executive. Rather, it would seem, the principle value of a compilation like this is to the general public, in the knowledge which executive messages may give respecting the personalities of the governors, the problems of their administrations and the progressive development of the commonwealth.

The messages are mainly of two classes, those delivered during the regular sessions of the legislature and those communicated at special sessions. The chief sources are the House and Senate Journals and the volumes of Executive Documents. The messages have been arranged in strict chronological order. As a given message may be found in more than one place, the source from which it is taken has been indicated at the head of the document. It frequently happens that in different sources the spelling, punctuation and capitalization vary; indeed these features are found to vary materially in the course of a single document; hence the messages have been transcribed literally, except in cases of obvious typographical error.

George N. Fuller

Jan. 2, 1925

CONTENTS

Messages of Lewis Cass.....	13
Messages of Acting-Governor Stevens T. Mason.....	73
Messages of George B. Porter.....	85
Messages of Governor Stevens T. Mason.....	121
Messages of William Woodbridge.....	299
Messages of John S. Barry.....	429

GOVERNOR LEWIS CASS

BIOGRAPHICAL SKETCH

LEWIS CASS was governor of Michigan Territory for eighteen years (1813-31), during which time he bent his great energies to promote the settlement of Michigan.

Cass was born in Exeter, New Hampshire, Oct. 9, 1782. His ancestors were of Puritan stock, early settlers of New England. His father was a commissioned officer in the Revolutionary Army and participated in the battles of Bunker Hill, Saratoga, Trenton, Princeton, Monmouth and Germantown. Lewis was the eldest in a family of three boys and two girls. His early education was received in Exeter Academy, New Hampshire. At the age of seventeen, he set out on foot over the Alleghanies to seek his future in the "Great West." He studied law at Marietta, Ohio, and was admitted to the bar when he was twenty years old. Four years later he was elected to the legislature of Ohio, which state had been recently admitted to the Union. He there originated the bill which inaugurated the movement that led to the defeat of the conspiracy of Aaron Burr. In 1807 President Jefferson appointed him Marshall of Ohio, a position which he held until the outbreak of the War of 1812.

In the latter part of 1811 the Indians, attempting to recover lands ceded to the Government, attacked the American camps on the Wabash, and Kentucky and Ohio troops went to the rescue. Cass was among the first to reach the rendezvous at Dayton, and by acclamation was elected Colonel of the Third Regiment of Ohio Volunteers. Early in June the following year, anticipating the war with England, this Regiment with Cass in command marched two hundred miles through the wilderness to Detroit. Meantime war had been formally declared. Cass urged the immediate invasion of Canada, and was the author of the proclamation of that event. He was the first armed American to land on the Canada shore, and with a small detachment of troops fought and won the first battle. General Hull, for reasons which now have been quite generally accepted as mitigating his conduct, did not follow up these early successes. Cass was ordered by Hull to give up his sword to a British officer; the Colonel indignantly broke it. At the surrender of Detroit his command was included in the capitulation. Cass was paroled and went immediately to Washington to report the causes of the disaster. He was immediately appointed a Colonel in the Regular Army and was soon after promoted to Brigadier-General. Released from parole he again repaired to the frontier, and joined the army for the recovery of Michigan. The brilliant victory



LEWIS CASS

of Commodore Perry had swept the enemy's fleet from Lake Erie, which opened the way for General Harrison, under whom Cass served as aide-de-camp, and won distinction at the decisive Battle of the Thames. This victory left Cass military governor of Michigan, and the Territory was restored.

In October 1813, President Madison appointed Cass civil governor of the Territory of Michigan. This position involved not only the ordinary duties of chief magistrate of a civilized community, but the immediate management of relations with the numerous and powerful Indian tribes of the Great Lakes region. In 1815 Cass began negotiations with the Federal Government which resulted in an exploring expedition, begun in 1820, for the purpose of ascertaining the resources of the region and of cultivating friendly relations with the Indians. This expedition proceeded in a great circle, including the Lake Huron shore and the Sault, the Lake Superior country, the region of the headwaters of the Mississippi, and the site of the future Chicago. Michigan at this time included what is now Wisconsin, Minnesota and Iowa, and from this vast territory not a remonstrance came as Cass was successively appointed Governor of the Territory. During this long period he negotiated twenty-one Indian treaties with the tribes of the Northwest, preserving law and order, and advancing the Territory in population and prosperity.

In 1831 President Jackson appointed Cass a member of his cabinet, as Secretary of War, in which position he served for five years. In 1836 Cass was appointed Minister to France, where he rendered eminent service to the United States and gained the respect and admiration of Europe. In particular he succeeded in defeating the attempt of Great Britain to gain by treaty the right of searching our vessels at sea. In 1842 he requested his recall, and returned to this country.

In 1845 Cass was elected to the United States Senate, but resigned in 1848 on his nomination for the Presidency. The next year he was re-elected to the Senate for the unexpired portion of his original term of six years. He was again elected in 1851, and served until 1857, when he entered the cabinet of President Buchanan as Secretary of State. From this position he resigned in 1860, owing to lack of sympathy with the views and methods of the President. He returned to Detroit, now a man of seventy-eight years, feeble and broken in health. He was greatly oppressed with the dangers which threatened the Government, and on April 25, 1861, he addressed a public meeting in Detroit upon the need of preserving the Union. He was destined to live to see the Union saved. He died in Detroit, June 17, 1866.

Michigan owes much to the unwearied exertions and generous patriot-

ism of Lewis Cass. He was a man of fine physical vigor, of great intellectual power, and of strict integrity, brave in battle, calm and sagacious in council. He possessed a persuasive eloquence. His writings, speeches and state papers were finished and voluminous. Socially he was warm-hearted. As a citizen of Detroit he was interested in its growth and prosperity. The natural rise in the value of real estate owned by him there made him a large fortune for those days, but he was always hospitable and was highly esteemed. For more than sixty years he was a prominent figure in the life of the nation, and was almost uniformly successful in his undertakings.

MESSAGES

1824

June 7, 1824

From *Journal of the Legislative Council*, pp. 4-16

Fellow-Citizens of the Legislative Council,

I congratulate you and our fellow-citizens generally, upon the favorable change, which has taken place in the Legislative department of the Territorial Government. You are the first representative body, deriving its authority from the people, which has ever been convened in the Territory. The Legislative power, therefore exercised, has been vested in officers, over whom the people had no direct control. Authority thus held is certainly liable to abuse; but its practical operation was restrained and secured, as well by the limitations provided in the fundamental Ordinance, as by the spirit of our institutions, and the superintending control of the General Government. Still that change in our political system, which gives to the people the right of electing their own Legislature, is not only correct in principle, but will be found most salutary in its operation.

The Territorial Governments of the United States are created for temporary and local objects. To preserve the peace of society in those sections of the national domain, whose resources are inadequate to defray the necessary expenses of their government, and where the population is too weak to justify admission into the Union. They terminate with the political majority, which many of these younger members of the republican family have already attained, and to which the others are rapidly approaching. Eight Territorial Governments have heretofore existed, which now constitute integral members of the confederacy; and some of them have increased in population and improvement, with a rapidity unparalleled in the history of nations. The natural advantages of this Territory, connected with the great improvements affecting it, which are making, without and within, warrant the opinion, that our own advance in all the elements of future greatness, will equal the progress of most of those Territories which have preceded us in this interesting political career, from infancy to maturity.

To those, whose knowledge of the history of this country is confined to the early date of its first settlement, and who are ignorant of the series of adverse events, which have checked its growth, it is a matter of surprise, that our population is yet so weak.—But it should be recollected, that under the French and British Governments, this was a remote portion of a remote colony, originally settled by adventurers in the fur trade. Agriculture and those arts which minister to it, were

neglected for a traffic of doubtful advantage. Although secured to the United States by the treaty of peace of 1783, still possession was not obtained till 1796. It then became a part of the immense Territorial Government Northwest of the Ohio, but separated from the local seat of that government and from all its principal officers by an extensive wilderness, in possession of its aboriginal inhabitants. It thus continued, with no identity of interest, and but little intercourse with the seat of Territorial power, until 1803, when the state of Ohio was formed. This country was then attached to the territory of Indiana; from whose government and people it was still more remote. In 1805, this Territorial Government was organized, but the commencement of its operations was marked by a single calamity. The town of Detroit, the mart of business, and in fact the only place of any importance, was utterly destroyed by one of the most awful conflagrations which has ever visited any portion of the Union.

About this period commenced a series of legislative measures on the part of the General Government, for the examination and adjustment of land claims in the Territory. Not more than six tracts were held by legal titles; a striking proof of the little importance attached to this colony by both the parent countries. The tenure of lands depended upon improvement and possession, and the initiatory grants were made by subordinate officers. In many instances farms had thus descended in the families of the occupants for several generations. It became equally important to the people and to the future prosperity of the country, that these claims should be examined, and that all equitable interests, founded on possession and improvement, should be confirmed by legal grants to the occupants. The wise and liberal policy of the general government led to the adoption of this measure, but its final execution was delayed by difficulties incident to the determination of such a complicated subject, until 1812.

In 1807, that feverish excitement became visible among the Indians, which terminated in open hostilities at the battle of Tippacanoe. During its progress and development, this frontier was subject to frequent alarms, and furnished no attraction for the peaceable and industrious emigrant, which could counterbalance the danger of an Indian war.

The disastrous effects of the last war upon this Territory are recorded in the history of our country. The whole population was prostrated at the feet of relentless savages, and with such atrocious circumstances, as have no parallel in the annals of modern warfare. Menaces, personal violence, imprisonment and deportation were indiscriminately used, as either appeared best calculated to effect the object; which avowedly was to sever our citizens from the allegiance they owed to their country. Fortunately their patriotism and energy resisted these efforts,

and probably, in no portion of the Union was more devotedness to the general cause manifested, than here.

This state of calamitous exposure was terminated by the treaty of peace; but it was not until 1818, that any of the public lands were brought into market. From this period, we may date the actual commencement of the settlement of the Territory. Prior to it, these lands could not be purchased, and our fellow-citizens in the older sections of the republic could have no motive to remove to a country, of which the national government was, under such unfavorable circumstances, almost the only proprietor.

But an auspicious change has taken place in our situation and prospects. The advantages of the Territory are every day more and more known and appreciated. The fertility of our soil, and its adaptation to the staple agricultural products of the middle states, promise rich rewards to the labor of our citizens. Our climate is highly favourable to health and to hardy and vigorous exertion. And all those considerations of cheap and easy access, of vicinity to old and flourishing settlements, and of other circumstances, which give hope and confidence to persons about to abandon their native home, unite to encourage the emigrant, who directs his views to this quarter. The Flag of our country is already seen in every part of the internal seas which surround us, and ere long they will be crowded by the enterprise and industry of our citizens, with the varied products of extensive and fertile regions. That great artificial river, which is about to unite the Lakes with the Ocean, one of the proudest monuments of human genius and industry, has brought us almost in contact with the Atlantic border, and furnishes a communication with the commercial metropolis of the nation, with an economy, safety and facility, which have almost annihilated the intervening distance.

Such are the favourable circumstances, under which the tide of emigration is now flowing towards this direction. And such are the cheering prospects, which mark the commencement of your Legislative labours. Our population is partly native, and partly collected from various sections of the Union. Our political institutions are still in their infancy. The character of our laws is yet to be established. Their moral effect upon a community cannot be doubted. Alternately operating as cause and effect, results are produced, which are felt for ages. Much therefore depends upon your labours. And in laying a foundation for a system of legal and political institutions, we must look beyond the present state of society for their full practical operation.

I submit for your consideration the policy of establishing, as far as may be consistent with the Ordinance, a system of township government, in which matters of local police may be regulated by the people

in their primary assemblies. The several counties are already divided into townships, but it will probably be necessary to change these and to establish others, as the population of the country increases, and its settlements advance. Should the existing acts of Congress present insurmountable obstacles to the full establishment of such a system upon this important subject, as our situation and the general feelings of the community may require, there is little doubt, from the many proofs of favourable regard, which we have received from the National Legislature, but that ample power would be given, on application, for the organization of such a plan. In the mean time the subject may be commenced.

I consider this among the most important objects presented for your examination and decision. In the eastern States, these minor political subdivisions have produced the most salutary effects upon the character of the people, and upon the public institutions. The matters to be regulated being local, and within the personal observation of all, they are freely and fully examined and dispassionately decided. The habit of public discussion, which is created at these assemblies, affords perhaps the best practical security for the permanency of free institutions.

The power of appointment to office in free governments presents for solution a doubtful and delicate question. In this Territorial Government, that power is vested in the executive alone. I feel no disposition, on the one hand, to shrink from any necessary responsibility, nor on the other, tenaciously to retain any power, originally granted for the public interest, but which the public interest now requires should be surrendered. The Ordinance of Congress, which forms the basis of our political fabric, was passed thirty-five years ago. It was a political experiment, and successive alterations have been made in it, to remedy defects which experience has shown to exist, and to accommodate its principles to the advancing opinions of the age. My own observation has satisfied me, that a beneficial change may be made in the mode of appointment to office. All township and corporation and many county officers, and particularly those whose duties relate to the police and fiscal concerns of the respective counties, should be elected by the people. In the appointment of others, it appears to me proper to give to the Council a participation. No system, which has been adopted in the United States upon this subject, is better calculated to effect the object, than that which requires a nomination by an Executive Magistrate, and the concurrence of a deliberative body. By these means we have the advantage of individual responsibility in the nomination, and also a check upon its abuse, in the required concurrence of a co-ordinate branch of the Government.

A bill, making alterations in the system of appointment, is now pending before the Senate of the United States. Its passage, however, at the present session is doubtful. Should it be postponed till the next, an expression of your opinion respecting its principles, and a recommendation to the Delegate from the Territory to support it, with such modifications as you may propose, would doubtless aid its passage.

A limitation in the tenure of some of the Territorial offices would probably ensure their more faithful execution, and would also facilitate changes for causes, which, although not amounting to positive offences, yet require correction. There are some offices too, particularly those of County Commissioners, in which a periodical and alternate vacation appears to be necessary—so as to require one incumbent to retire at the end of each year.

Application is frequently made to the Executive for inquiries into the alleged misconduct of public officers, and for their removal. Justice to the community, as well as to individuals, requires that some definite mode should be provided, in which complaints, not furnishing grounds for indictment in the ordinary state of the laws, may be examined and redressed. The most obvious remedy is to grant jurisdiction to the courts, defining the causes, for which application may thus be made; and providing for a summary exercise of the power. It is impracticable for the Executive of the Territory to perform this duty. He can neither summon witnesses, nor administer an oath. And besides, the constitution of our courts is not only admirably adapted to the investigation of complicated facts, but the publicity and mode of their proceeding is equally adapted to give general satisfaction. An important consideration in all cases, affecting the interests of the community.

Although, as I have before stated, agreeably to the present provisions of the ordinance and acts of Congress, all civil officers are required to be appointed by the Governor, still the mode of removal from office is matter of local legislative regulation.—There are some offices, necessarily connected with and subordinate to others, and between which such a connection exists, as to render it proper that one should have an immediate and decisive control over the other. Among these are the Clerks of Courts. Full confidence between the Judges and their Clerks is so essential to the correct performance of the important functions of both, that provision should be made for preventing the occurrence of a different state of things. This object would probably be accomplished by granting to the courts the power to remove their Clerks.

The facility with which persons committing the most dangerous offences, in this Territory, and in the neighboring Province of Upper Canada, may flee beyond the proper criminal jurisdiction, and the consequent impunity, which they find, require the legislative interference

of both governments. Life itself is insecure, where punishment may be thus easily avoided. How far the comity of nations would authorize a surrender in such cases, without some express provision, legislative or conventional, may be considered a doubtful question in the United States. Different judicial decisions have been given upon the subject, but I believe the execution of such a principle would be found extremely difficult, unless a previous recognition of it by the other departments of the government had been made, and the details for its execution provided.—I submit, therefore, to your consideration, the expediency of passing a law, similar to one enacted by the legislature of New York, enumerating certain offences, more immediately affecting life and property, and providing that persons committing them in Upper Canada, and fleeing to this Territory, shall be surrendered to the authorities of that province, on proper requisition, and on the production of such testimony as, by our laws, would be sufficient to justify the commitment of an accused person for trial. It would be a necessary provision in such a law, that it should be inoperative until a reciprocal **arrangement** be made by the bordering Province.

The present system of trials in the Supreme Court is susceptible of much improvement. As that Court is now constituted, all issues are tried at Detroit. The expense and inconvenience of bringing parties and witnesses, and, in some instances, jurors from other parts of the Territory, will be more and more felt as the population and business of the country increase, and with them the probable sources of litigation. It is far better to send the courts to the people, than to bring the people to the courts. Issues should be tried in the proper counties, and for that purpose Circuit Courts might be organized, each to be held by one Judge of the Supreme Court. Such an arrangement would be advantageous to the public, and not burthensome to the Judges.

The situation of the Territorial Militia, will require your deliberate attention. As a most important branch of the system of national defence, the militia of the United States has attracted the attention of the government and people, since our admission into the family of nations. Its organization has furnished almost an annual theme of executive recommendation, and of legislative deliberation. That its improvement has not kept pace with the public feeling, is known to all. This failure is certainly not attributable to any inherent and insuperable difficulty in the subject itself, but rather to the various **modifications** which have been attempted. The general plan is so consonant to the spirit of our institutions, and so compatible with our internal security, that no efforts should be omitted, to render it as efficient in practice, as it is unexceptionable in principal. Our own local situation renders this subject as important to us as to any part

of the Union. Ours is a border country, and the lessons of experience have been too recent, and too dear-bought to be speedily forgotten.

One principal source of the inefficiency of the Territorial Militia, results from the fluctuations which continually take place in the offices. So long as this evil operates to its present extent, we can expect no permanent improvement. Inducements must be held out to officers for their continuance in service. Exemption from militia duty, after a certain term, would probably produce beneficial results.

The reports of the Adjutant-General, which are herewith presented, will shew the strength of the militia, agreeably to the last returns, and will disclose some of the most prominent causes, whose operations paralyze the exertions upon this subject. I cannot but hope, that you will be able to apply an efficient remedy. The report of the Quarter-Master General will exhibit the number and quality of the arms received from the United States, the disposition which has been made of them, and the amount still due to the Territory.

It is always desirable, that the connexion between the representative and the constituent, should be as intimate as practicable, and with this view, districts are usually established, within which it may fairly be presumed, the electors will be acquainted with the characters and pretensions of those, who request their suffrages. When these districts are extensive, and particularly when they embrace a whole state or Territory, the immediate accountability of the representative to those among whom he lives, and who know him best, is weakened. I believe it would be expedient to divide the Territory into districts, and to assign to each the election of two members of the Council. A fair construction of the act of Congress of March 3, 1823, will authorize the exercise of this power.

Connected with this subject, and in order to furnish the means of executing the proposed plan, it will be necessary to provide for taking a periodical census of the inhabitants of the Territory. And should a majority of our citizens ever claim the privilege of substituting a General Assembly for the present legislative body, agreeably to the power given in the act I have mentioned, such an inquiry would be important, with a view to the apportionment of the representation. A census might be annually taken by the assessors in the respective counties, when the taxable lists are required, with little, if any additional expense to the public. These statements would also furnish important statistical information.

By an act of Congress of March 26, 1804, one township of land was granted for the support of a College in this Territory. The Trustees who were incorporated for the management of the concerns of this College, by an act of the former legislature, believing that the location

of this tract of land, in so large a body, would be injurious to the institution itself, as well as to that portion of the country where it might be made, petitioned Congress, in November last, for permission to locate the same quantity of land in the various subdivisions of a township. The fate of this petition is not yet known.

But as a provision, similar in its features, has been made for other Territories, and as there appears to be no objection in principle to such a modification, it is not anticipated that the application will be unsuccessful. The expression of your opinion, if favorable to the measure, would probably aid its accomplishment.

A wise and liberal policy, on the part of the general government, has established, as a principle in the disposition of all the public lands, that section numbered sixteen, in each surveyed township, shall be reserved for the support of schools therein. This reservation is equal to one thirty-sixth part of the national domain. Its immediate preservation and ultimate application, in conformity with a well digested system, are objects of paramount importance. No doubt can exist of your authority to protect these school lots from waste and trespasses, and there can be as little of the expediency of doing it. How far it is competent for the Territorial Legislature, without the express sanction of Congress, to provide for leasing these tracts, with a view to their improvement, and to the application of the eventual profits to the objects of the trust, is a question of much importance. Many of these sections, or portions of them, might now be advantageously leased, and as their productiveness depends wholly on the state of these improvements, the period of their value to the community would, by these means, be accelerated.

These reservations of land by the United States, of an entire township, and of all the sections numbered sixteen, together with three sections, granted by the treaty of Fort Meigs, constitute all the public funds which are now provided for procuring the means of education. Whatever beyond these, the state of the country may require, must be furnished by the application of individual contributions, or by county or township assessments, authorized by law.

The importance of this subject to our present and future prosperity, must be too well appreciated to require any observations from me. A practical and well digested system, which should extend to all the advantages of education, would be of inestimable value to this young and growing community. A more acceptable service could not be rendered to our fellow-citizens. And no more equitable tax can be levied in any country, than one, whose application is directed to preparing its citizens for appreciating and preserving the blessings of self government.

The situation of the roads in the settled parts of the Territory, shew

that there is some radical defect in the laws upon this subject, or some culpable neglect in the administration of them. Your attention cannot too early nor too earnestly be directed to this matter, with a view to ascertain the cause of the evil, & to apply the proper remedy. No labor can be more advantageously employed in a new country, than that which is expended upon the improvement of the roads, as well to facilitate the various intercourse, which the operations of society require, as to encourage those who are increasing our strength and wealth, by forming settlements in the interior of the Territory.

A part of the proceeds of the public lands, amounting to three per cent, upon the sales, has been heretofore granted by the government of the United States to the various Territories, when about to be admitted into the Union. There are considerations connected with the situation and settlement of this frontier, as well as with the fiscal effect which the measure would produce, in the increased sale of the lands, which would justify an application to Congress for the immediate grant of this sum. Should the effort to obtain it be successful, the amount thus procured, if divided among the several counties, would materially aid them in the formation and preservation of their roads.

The general subject of the Territorial Laws will doubtless engage your attention. Coming, as you do, from every part of the Territory, you must bring with you the public feeling on this important topic. Our code of laws has been in force sufficiently long to have submitted to the test of experience, the only unerring guide in political questions, their general operation. Changes will be found necessary. Some of the statutes are doubtful in their policy, and some are doubtful in their construction. The march of human improvement, in all the practical sciences, is steady and perceptible. In that which embraces, within the sphere of its operation, protective or correctional, the concerns of all, and at all times, and whose penalties or obligations are felt in every relation of life, the progress of reason, and changes in the state of society and of public opinion, must produce important alterations. None but a despot, giddy with his insecure elevation, and presumptuously endeavoring to survey the future instead of regarding the past, would attempt to imprint upon any laws the character of permanent immutability. But there is reason to believe that in the United States, our legal systems are altered too frequently, and with too much facility. In questions involving no principle of morality, it is often of more importance that the law should be settled, than that it should be settled in any particular manner. A knowledge of its requisitions, and a respect for its obligations, are impaired by these perpetual fluctuations. It should never be forgotten by the lawgiver, that more legal enactments afford inadequate remedies for many of

the evils which disturb the peace of society. Their causes lie deeper than the operations of ordinary laws, and the remedy must be sought in applications not found in the statute book.

The general principles of the Territorial Code, appear favorable to the security of public and private freedom, and in consonance with the feelings of our fellow citizens. I need not trouble you with a formal enumeration of those provisions which are defective or inexpedient. They are at least as well known to you as to me, and will probably occupy your deliberate attention.

The system, however, of regulating the manner of supporting paupers, threatens such serious consequences, that I cannot but recommend to you a careful revision of it. The obligation for providing for the maintenance of those who are unable to provide for themselves, is felt and acknowledged in all civilized communities. But the best method of collecting and applying these eleemosynary contributions, is a practical question in political ethics, which does not admit an easy solution. In almost all the nations of Christendom, this duty is left, like many others, to be performed by individuals, without deriving any part of its obligation from positive legislative enactments. In this country, and in that from which we have received our legal institutions, taxes are levied by the public authority, and the proceeds applied to the support of paupers. The plan which has been adopted in this Territory, does not sufficiently define who are proper subjects of this bounty; nor does it make any discrimination between the permanent resident and the stranger, who is thrown upon us for the very object of support. Many soldiers, who have exhausted their days and strength in the service of the nation, are discharged in the various counties and left to seek the public charity. Provision should be made by the general government for the support of these men. And besides, sick and disabled persons are frequently brought to our shores and abandoned. Duty to ourselves requires that means should be provided for sending these persons to the places of their embarkation.

The statement of the Treasurer, which you will receive, will exhibit to you the situation of the Territorial Treasury. You will perceive by it, that there will be a surplus after meeting all the existing demands. It is due to the former legislature to remark, that besides defraying the ordinary expenses of government, and redeeming a large amount of debt, which had been contracted previously to the war, they appropriated considerable sums to the erection of public buildings in the counties of Monroe and Macomb. They expended at least an equal amount upon roads and bridges, and they supported for some years the whole police of the Territory, including the maintenance of paupers, and the expense of all criminal prosecutions. After the or-

ganization of counties, their treasuries were required to meet some of these objects of expenditure; but many of them, and in fact all which related to matters of general concern, still remained charges upon the general Treasury. Among these, were several expensive criminal trials, some of which rendered it necessary to bring the parties and witnesses from one of the most remote counties of the Territory. No direct tax for these, nor for any other object, has been levied by the Territorial government, since eighteen hundred and twelve. The receipts of the Treasury have been derived from the licences of Stores, Taverns, and Ferries, and from auction duties. And in the counties of Crawford & Brown, the proceeds of these licences and duties have always been paid into the county Treasuries. The same indulgence was also extended to Michilimackinac for some years. These more remote and less populous portions of the Territory, were thought to be sufficiently burthened by their necessary local duties and demands.

The Territorial Treasury has been relieved from a heavy expense by the establishment of a superior court in the three north-western counties; and should you deem it expedient to provide for the organization of Circuit Courts in the peninsular counties, that measure would still further diminish these claims upon the Territorial fund—for as all the courts would then be local, their necessary expenses should be defrayed by the local Treasuries. Under this system, the prosecuting Attornies in the respective counties should conduct all prosecutions, before any court therein. As no duties would then remain to be performed by the Attorney-General, the office itself might safely be abolished.

The appropriation made by Congress for the expenses of the Legislative department, has so reduced the demands upon the Territorial Treasury, that it appears to me inexpedient to continue its operations. The few objects of general concern now remaining, which require specific appropriations, may be paid from the fund of \$1200, placed at your disposition by the general government: and in cases where the claim is local in its origin, provision may be made for its payment at the proper county Treasury. This arrangement will enable you to repeal the laws creating the offices of Territorial Treasurer and Supervisor of Taxes, and to abolish the Territorial Treasury. By these means, some reduction may be made in the duties upon licences, and whatever is retained, may be retained as a county tax, and paid into the Treasuries of the counties. A material diminution may thus be made in the amount of the present assessments, and important relief afforded to our fellow-citizens. The pecuniary situation of the country imperiously requires a system of rigid economy, in the administration of the concerns of the Territory, whether general or local; and I am

confident, that I only anticipate your views, when I recommend the adoption of measures, having for their object a retrenchment of the public expenditures.

I have only to add, in conclusion, that I shall zealously co-operate with you in the promotion of every measure, calculated to give satisfaction to our fellow-citizens, and to secure the important interests committed to our administration.

LEWIS CASS.

July 8, 1824

From *Journal of the Legislative Council*, p. 49

Gentlemen of the Legislative Council,

It has been officially reported to me by the judge of the circuit court, in the counties of Michilimackinac, Brown and Crawford, that a person has been sometime confined in the gaol of Brown county, on a charge of murdering an Indian. Owing to the circumstances of the reappointment of the Judge, and the necessity of his repairing to this place to take the oath of office, no circuit court was held in the county of Brown at the last June term, and none will be held till next June, unless special provision for that purpose is made by law.

The person accused is held in confinement at great expense to the county. In the course of another year it may be difficult to procure the attendance of the necessary witnesses—and in the mean time, there is reason to apprehend that the relations of the deceased Indian, not appreciating the causes of delay, may attempt to avenge his death by the murder of an innocent citizen.

If the accused person is guilty, justice to the community requires, that he should be tried and punished as soon as a just regard to the forms of legal proceedings will permit; and if he is innocent, he should be discharged.

I recommend to your consideration the expediency of providing for a special term of the circuit court of Brown county, as soon as may be, for the trial of the person now confined there upon the charge of murder.

LEWIS CASS.

1825

January 18, 1825

From *Journal of the Legislative Council*, pp. 4-6

Fellow-Citizens of the Legislative Council,

You will probably resume the consideration of the various subjects, which engaged your attention at your last session, and were necessarily left unfinished at its termination. It is important to our fellow-citizens and to the prosperity of the Territory, that many of these measures should be adopted, and under this impression I shall at this time submit for your consideration such additional subjects only, as appear indispensably to require it.

In the execution of the act entitled "An Act to amend an act entitled an act concerning the Supreme and county Courts of the Territory of Michigan, defining their jurisdiction and powers, and directing the pleadings and practice therein in certain cases," difficulties have arisen respecting an important provision of it. It has been decided by the Supreme Court, that so much of that act as provides that the Clerks of the county Courts shall be ex-officio Clerks of the Supreme Court, contravenes that clause in the act of Congress, entitled "An act to amend the Ordinance and acts of Congress, for the government of the Territory of Michigan and for other purposes," which declares that there shall be but one Clerk of the Supreme Court, and is therefore void. In resuming, as it will be necessary to do, the consideration of the Territorial act, with a view to render this provision conformable to the decision, I recommend an entire re-examination of the acts, which regulate the Supreme Court. I think it will be found, on a full consideration of the subject, that a system, which shall provide for the trial of issues in fact, in the various counties, and for the determination of other questions at a court in bank, will operate most beneficially in the present circumstances of the country. The time generally allowed upon a circuit, and the opportunities of consulting authorities, are not favourable to a mature consideration of such questions, as must frequently engage the attention of that important tribunal. Deciding in the last resort, both in cases arising under the territorial laws and the act of Congress, it is of great consequence, that such a court should possess all the means of examining fully and of deciding correctly.

Notwithstanding the various considerations, which imperiously call upon us, as a frontier country, to keep our Militia in a state of preparation, yet it is a fact, which ought not to be disguised, that many of the officers are lamentably deficient in a knowledge of their duties, or

in a disposition to execute them. The act of Congress and the Territorial law, on this subject, require that annual returns shall be made of the state of the Militia. The returns from the various sections of the Union, are consolidated at the War Department, and submitted to Congress; and they exhibit, or ought to exhibit, a perfect view of the condition, both in men and material, of that force, upon which this republic must principally depend in its hour of danger. These returns also supply the data, upon which the apportionment is made, of the arms furnished by the general government to the various states and Territories. In this view it is important to us, that our full numerical strength should appear upon the returns.

Unfortunately, however, not one Regimental return has yet been received of the state of the Militia for 1824,—and the Adjutant General has been consequently unable to make the general return required by law. That officer, always zealous in the discharge of his duty, has furnished the necessary forms to all the officers required to make returns. But there has been a culpable neglect of this duty.

I should have directed such measures to be taken, upon this subject, as the law authorizes, had I not been aware, that the whole matter was before you at your last session, and would probably be again taken into consideration. I trust an efficient remedy will be applied to the evil.

The annual assessments constitute no inconsiderable proportion of the expenditures, rendered necessary in the several counties. I submit for your consideration the propriety of requiring assessments to be made biennially, or perhaps at longer intervals, and of vesting in the County Commissioners authority to cause the property of all persons to be assessed, who may remove into the respective counties between the periods of assessment. Every measure which has a tendency to diminish the public expenditures, claims, and, I have no doubt, will receive your serious consideration.

The Treasurer's report of the state of the Treasury, is herewith submitted to you. All existing demands authorized by law, have been paid, and a balance remains subject to legislative appropriation. No part of the contingent fund, placed at the disposition of the Executive, has been expended.

My co-operation will not be withheld from any measure, calculated to promote the prosperity of the Territory.

Lew. Cass.

1826

November 6, 1826

From *Journal of the Legislative Council*, pp. 4-10

Fellow-Citizens of the Legislative Council:

In administering to you the solemn obligation you have now taken, faithfully to discharge the duties which devolve upon you, I am happy in the reflection, that in this mixed and temporary government, deriving its authority both from the United States and from the citizens of the Territory, there is a Legislative body, elected by the people and responsible to them, and without whose concurrence no measure affecting the general interest can be altered or adopted. That interest has been steadily advancing since the last session of the Legislative Council, and the best evidence of it will be found in our increased population, our extended improvements, and our augmented resources. The pecuniary difficulties which have been felt in every part of the United States, have checked the progress of emigration; but this effect must be as temporary as are the causes which produced it. We offer to enterprising and industrious emigrants in moderate circumstances, inducements for removal and settlement which can never be inoperative. They are furnished by our situation and soil and climate; by the cheapness of land, the certainty of titles, and the facility of access; and by the nature of our institutions, the character of our population, and the prospects which time must ere long realise.

At the last session of Congress an additional grant was made for the support of a seminary of learning in the Territory. The land appropriated to this object is now equal to two townships, and authority has been given to make the locations in small tracts; a provision equally valuable to the institution itself, and to the community. A foundation has been laid by this measure, and by the grant of section number sixteen in each township, for the establishment and support of a system of education commensurate with the wants of society, and extending to all classes of the community. When the country becomes improved, and dense settlements are every where formed, a revenue will probably be derived from these reservations, amounting to almost one thirtieth part of the Territory, adequate to the great purposes of public education. But until then, we shall in vain look for any vigorous or systematic effort upon this subject, without the powerful intervention of the legislature. Individual zeal and exertion may accomplish something, but experience proves that they are neither sufficiently extensive nor

permanent to embrace within their operations all who require instruction, and who have not the means of obtaining it. The wealthy will provide for their own children, but those who have been less fortunate in life must look to their country for assistance. Of all the purposes to which a revenue, derived from the people, can be applied, under a government emanating from the people, there is none more interesting in itself, nor more important in its effects, than the maintenance of a public and general course of moral and mental discipline. Our civil officers are paid, our poor are supported, and our criminals are prosecuted and punished; and our public treasuries provide for these expenditures.

But our systems for the diffusion of knowledge and of correct principles among our youth, by which our officers would be rendered able and upright, our citizens industrious and frugal, and the community generally honest and virtuous, are wholly inefficient, and in many sections of the Union independent of the public will and of the public means. They are not, as they should be, established and maintained by all, for the cultivation and improvement of all. Many republics have preceded us in the progress of human society; but they have disappeared; leaving behind them little besides the history of their follies and dissensions, to serve as a warning to their successors in the career of self-government. Unless the foundation of such governments is laid in the virtue and intelligence of the community, they must be swept away by the first commotion to which political circumstances may give birth. Whenever education is diffused among the people generally, they will appreciate the value of free institutions, and as they have the power, so must they have the will to maintain them. It appears to me that a plan may be devised, which will not press too heavily upon the means of the country, and which will ensure a competent portion of education to all the youth in the Territory; and I recommend the subject to your serious consideration.

The Legislature of the State of Ohio has contended, that the northern boundary of that State is a line run directly from the southern extreme of Lake Michigan, to the north cape of Miami Bay. The line actually run, under the authority of the United States, and in conformity with the various acts of Congress upon the subject, commences at the southern extreme of Lake Michigan, and proceeds due east to Lake Erie. The country north of that line and bounding upon Ohio, is subject to our jurisdiction, and that jurisdiction can only be changed by the authority of the general government. A resolution was introduced into Congress, at the last session, but not acted on, to provide for a cession to Ohio of the country claimed by her. Although I consider the right of this Territory too clear to be shaken, and that our interests are safe, where

alone they can be affected, still the expression of your sentiments upon the subject would be useful in the discussion it may produce, and I suggest the expediency of your interference.

With Indiana also our boundary is unsettled. The Ordinance of Congress of July 13, 1787, which formed the basis of the governments north of the Ohio, provided that a line, to be run due east and west, from the southern extreme of Lake Michigan, to Lake Erie and the Mississippi respectively, should be the boundary between the states upon the Ohio, and those north of them, if Congress should find it expedient to establish more than three states. The power thus vested has been exercised by the admission already of three of these states into the Union, and by the existing provision for the admission of at least one more. The original arrangement of this matter is in that part of the Ordinance which is declared to be a compact, and unalterable but by mutual consent. Virginia, by her act of cession, was a party to the arrangement, and her consent, as well as that of the States and Territories to be affected, is essential to the validity of any change in this instrument. The boundary of Indiana has been extended ten miles north of this line, and as the consent of the proper parties has never been given to this measure, we have a right to expect that our just claims will yet be regarded.

In like manner, the boundary of Illinois has been extended, to the parallel of 42 deg. 30 minutes, probably forty miles north of the line established by the Ordinance.

How the claims of this Territory to the country thus severed from it, can be best enforced, and at what time it may be expedient to urge them, I leave for you to determine.

But there is a question, connected with the existing jurisdiction of Illinois, which the interests of an important section of the country require should be settled without delay. The parallel of 42 deg. 30 minutes probably intersects the Mississippi in the vicinity of the Riviere au Fievre. Upon that stream, as is well known, there are valuable lead mines, to which the Indian title has been extinguished, and which are now profitably and extensively worked. A considerable population is now engaged in this business, much of which, there is little reason to doubt, is in the county of Crawford. Illinois has recently extended her jurisdiction over this settlement, and difficulties have already occurred in the execution of process, which threaten serious consequences. It is desirable that provision should be made by Congress, for running this temporary line, if the boundary cannot be definitely established; and it would doubtless promote the accomplishment of this measure, should you express your views upon the subject in a memorial to that body.

The measure already adopted in Congress, and those which are proposed and mustered there in relation to this Territory, will, when carried into effect, materially advance the settlement of the country, and add new impulse to emigration. The appropriation for opening a road between Detroit and the Miami has been almost expended, and the most difficult portion of the work has been finished. A bill passed the House of Representatives at the last session for the completion of this road, but it was not acted on in the Senate. This result, however, was owing to causes having no connexion with the merits of the proposition; and there is no reason to doubt but that it will be carried into effect at the approaching session. Bills likewise passed the same body, appropriating twenty-five thousand dollars towards opening the Chicago road, and for surveying and laying out a road from Detroit to Saginaw, and another from Detroit to Fort Gratiot. The same causes operated to prevent the final passage of these bills, and there is the same reason to expect, that during the ensuing winter they will receive the sanction of both branches of the national legislature. These important avenues of communication, together with the Shiawassee road, and others which are now in contemplation, will facilitate the access of our citizens, and of emigrants to every part of the Territory, and accelerate our advance in the great career of public improvement.

Among the measures interesting to us, was an appropriation by Congress for the survey of La Plaisance Bay; not on the account of the amount to be expended, but because it can scarcely fail to lead to the improvement of that important harbor; a work highly interesting to a valuable and flourishing section of the Territory.

A proposition was also favorably received, and will probably ere long become a law, to place under your control all the sections appropriated to school purposes. This measure is demanded, as well by the policy of adopting an immediate system for deriving a revenue from these grants, as by the necessity of protecting them from waste and injury.

Our citizens are slowly, but gradually receiving compensation from the United States for injuries sustained by them from the wanton devastations of the enemy during the progress of the late war. It is deeply to be regretted, however, that justice is so tardily administered. The character of their sufferings, as well as the firmness and fidelity of their conduct, has never yet been duly appreciated. The solemn pledge given on the surrender of this country, that persons and property should be protected, was grossly violated, and under circumstances of atrocity without a parallel in modern warfare. As the redemption of this pledge can be enforced by our government only, it is hoped the time is not remote, when the public obligation will be felt and acknowl-

edged. Other portions of our common country were visited by ordinary calamities of war, and many of them have received a pecuniary compensation for their losses; but here, where desolation and death followed in the train of conquest, and where a solemn guarantee was as publicly given as it was notoriously violated, we are yet looking to the general government for justice. A judicious and temperate exposition of the peculiar circumstances of these claims, would no doubt aid their favorable consideration by Congress.

The period has probably arrived, when it will be expedient to enter into a full consideration of the state of the laws respecting the collection of debts, and the application of those remedial powers which are vested in the judicial tribunals. Heretofore the situation of the country, owing to circumstances sufficiently well known, has rendered it inexpedient, and perhaps improper, to introduce much change into this department of administrative justice. Nor would it now be salutary, by legislative intervention, to change the time or mode of enforcing remedies for the violation of contracts heretofore formed. Such a procedure would occasion much individual distress and sacrifice of property, and would be equally useless to the creditor and debtor. The laws now existing, should be left to operate upon contracts now existing. The rights of both parties will be thus maintained, and the relations of society left undisturbed. But a prospective system may be adopted, to operate upon all contracts formed after a future day, which would diminish the time and expense of litigation and correct many of the evils necessarily incident upon the multiplication of law suits. But little is gained by the delay attendant upon a system of tedious litigation. The creditor is always injured and sometimes ruined, and the debtor is generally more unable to pay the demand at the termination of the suit, than he was at the beginning; and this too, after its amount has been increased by the expenses, he is compelled to encounter. Speedy justice is not less requisite in a community of credit and business, than impartial justice; and both are solemnly guaranteed by the Ordinance. In one of the states which is nearest to us, this plan has been adopted, and I believe with the happiest effects. Its introduction here would be beneficial to our own citizens, and advantageous to the character of the Territory.

Our road system is so inefficient in its practical operation, that I am compelled to call your attention to the state of the laws upon this most important branch of our internal policy. Every where good roads are essential to the convenience of the people, and to the due execution of many of their public and private duties. But in a new country, where the population is scattered and the settlements are thin, and where distant and constant communication is necessary to the supply of

the most common wants, the state of the roads is a matter of vital importance. The powers of the supervisors appear to be sufficiently extensive, and the taxes which they are authorized to levy, whether in money or labor, to be as much as ought to be appropriated to this object. But our roads are bad, and little permanent improvement is made upon them. The remedy for this evil, whatever it may be, can only be applied by your authority.

I have heretofore submitted to the Legislature my views in relation to the establishment of a system of township government; but I deem the subject so important, that I must again recommend it to your attention. These institutions have elsewhere produced the most beneficial effects upon the character of the community, and upon the general course of public measures. They embrace within their scope those questions of local police, which are interesting to every citizen, and which every citizen is competent to discuss and determine. In the more extensive concerns of a county, the necessary regulations for these subordinate matters cannot be adopted and enforced. Besides, in proportion as all governments recede from the people, they become liable to abuse. Whatever authority can be conveniently exercised in primary assemblies, may be deposited there with safety. They furnish practical schools for the consideration of political subjects; and no one can revert to the early history of our revolutionary struggle, without being sensible that to their operation we are indebted for much of the energy, unanimity, and intelligence, which were displayed by our government and people at that momentous crisis. I am sensible that the delay which has occurred upon this subject, is attributable to a prudent caution, which should always attend any important changes in civil polity, and to a difference of opinion respecting the plan best adapted to our situation and prospects. But sufficient time has elapsed since this measure was first introduced, to obtain an expression; and I am greatly deceived, if that opinion is not decidedly in favor of the introduction of a practical system without further delay.

Having been absent upon public business during a considerable portion of the season, and but recently returned, I am not prepared to communicate to you what other laws experience has proved to be inexpedient or defective. But coming as you do from every part of the Territory, and bringing with you the public sentiment upon this important subject, you will be able to apply the proper remedy to such evils as require legislative interposition. They will not be found to be numerous, for our laws are generally adapted to the state of the country and to the wants and feelings of our citizens.

Some changes are no doubt necessary, for even in countries where the condition of society is most stationary, the march of intellectual and

physical improvement cannot be wholly checked, and in our own, it has advanced with a rapidity of which history furnishes few examples. Our code of laws must accommodate itself to the progress of our institutions, and to the more important changes in public opinion. A little observation and reflection, however, will satisfy us that in the United States, generally, legislative experiments have been made too frequently, and with too much facility. Laws are no sooner known, than they are repealed. Important innovations are made upon established principles; and experience, the only sure test in matters of legislation, soon demonstrates their inefficacy, and they give way to some new statutory provision. I trust that a character of permanency will be given to the laws, which you are about to revise, and that after engrafting upon them such provisions as have been found salutary, they will be left to operate until our legal institutions shall be matured by time and experience.

Much fellow-citizens, depends upon the result of your labors. We are yet a young community, most of us collected from different sections of the Union, and others descended from the enterprising adventures, who at an early day were the pioneers of civilization in this distant region.

But our Territory has yet its character to form. No country has ever been settled by more enterprising, intelligent, and industrious citizens, than those who have come and are daily coming to our shores. To enact wise and wholesome laws, to create general views and feelings among our population, to form a unity of sentiment and action, as there is of interest and situation, and so to consolidate our social and political relations, that all may feel a common attachment to this land of their birth or adoption, are objects, upon which the prosperity of the Territory must long depend.

In the attainment of these objects, your measures and influence and example, will be of paramount importance. The character and destiny of the country are committed to the legislative bodies, which may be convened for a few succeeding years. As their trust may be executed, for good or for ill, we shall be called upon to approve or deplore their labors.

The issue is with Him, who holds in His hand nations and their governments.

LEWIS CASS.

1827

March 29, 1827

From *Journal of the Legislative Council*, pp. 75-78

To the Legislative Council:

I return, without my signature, the bill entitled "an act to incorporate the Stockholders of the Detroit Banking and Insurance Company."

Without entering into any general considerations, respecting the system of banking operations, it will not be doubted, that when a corporation is created, vested with important pecuniary privileges, proper securities should be provided, that the public will not be injured, either by the use or the abuse of the powers thus granted. We must resort to the experience of other legislatures, to determine what these securities shall be, and their views will be found in the various charters, which have been granted in the different States of the Union. As our monied institutions have successively fallen, either by the imprudence or frauds of their directors, the necessity of more rigid provisions in the acts of incorporations, has been felt and obeyed. There has been a gradual change in the public opinion upon this subject, and it will be a fortunate change, if improvidence should be checked, either in loaning or borrowing, and if the interests of the community shall be so guarded, that the shocks in our circulating medium may be hereafter avoided.

That the Legislative Council intend to secure the rights of their constituents, there is no doubt, and I may add with truth, that so long as the directors named in the bill should continue in office, their character and standing in life would furnish an ample guarantee, that neither the interests of the institution, nor of the public, would be compromised [sic], were the charter itself without any of the usual safeguards. But laws must be framed with a view to their permanent operation, and not to the personal characters of those who are to administer them, or upon whom they are immediately to operate.

In considering this bill I perceive several provisions, which appear to me susceptible of amendment; but in the exercise of the duty which devolves upon me, of approving or disapproving the bills passed by the Council, I do not conceive it my duty to enter into any of the ordinary questions of expediency, which furnish most of the subjects of legislative discussion. The Council are the immediate representatives of the people, and may be safely presumed to be acquainted with the feelings of their constituents upon these topics. But on all questions, involving constitutional doubts, or affecting permanently and seriously the interests of the Territory, I feel myself called upon by the obligation of duty,

to withhold my sanction to a measure, unless I am satisfied of its constitutionality and utility.

There appears to me to be four objections to this bill, which render it improper that it should become a law in its present form.

1st. There is no limitation, within which the bank must commence its operations. It is usual, and certainly proper in all charters of incorporation, to prescribe some definite period, within which the object shall be accomplished, or the privileges become void. By this bill, important rights are granted to individuals, and the consideration which the public are to receive, is the facility afforded to the community, by the operations of the institution. The charter is framed and granted, with a view to the existing state of things, and it therefore ought not to be retained during the whole term of its operation, to be used or rejected, as subsequent events may appear to require. The public would thus be deprived of the anticipated advantages, and the retention of the charter in the hands of individuals might prevent the establishment of a similar institution by others.

But besides, this company is required by the 25th section, to subscribe four thousand dollars to the stock of the Steam Mill Company. This is a wise and liberal provision, and one in which the public have a deep interest. But it is hoped and expected, that the project of erecting a Steam Mill, will be carried into immediate effect; and if the subscription of the banking company is to aid this project it must be applied without delay. If therefore, the Steam Mill should commence, before the commencement of the banking operations, this provision would be useless; or if the bank should be long delayed, the other measure might be defeated.

2d. The 26th section of this bill provides, "that no person or copartnership within this Territory, shall hold more than one hundred and fifty shares of the stock of said first mentioned company," and the 11th section provides, that no stockholder, unless actually resident within the United States, shall vote at elections or on any other occasion by proxy; thus clearly implying, that foreigners may hold stock in this bank.

It therefore follows, that while a citizen of this territory is restricted to one hundred and fifty shares, a person from Canada, or a citizen of any of the States, may subscribe to any amount. Certainly, this is a very unusual, if not an unconstitutional prohibition. This bill creates privileges, and our own citizens are at least as well entitled to them, as the citizens of the States, and far better than foreigners. If this provision was introduced to bring capital from other places, here, it is useless, if not injurious. To limit the amount of stock to be taken in the Territory, is to presuppose that there is unemployed capital in the Territory,

which would seek this investment. If there be not, the limitation is useless, and if there be, it is better that it should be thus employed, and the profits retained here, than that it should be idle, and a considerable amount of interest annually sent from the Territory.

3d. The 21st section authorises the company "to employ any portion of their capital, which may belong or accrue to them, in the purchase of public or other stocks or in other monied transactions or operations not inconsistent with the laws of this Territory, or the constitution of the United States."

The peculiar phraseology adopted here, would permit the corporation to engage in monied transactions or operations, inconsistent with the laws of the United States. This objection is decisive to the section, but there are other considerations connected with this general grant of power, which render it inexpedient, and I think dangerous.

Should the time arrive, during the existence of this company, when its capital could not be employed in those operations, which come within the sphere of its banking and insuring powers, two modes present themselves of giving a proper direction to their unemployed funds. One is, by a distribution among the stockholders, of all that may not be required for the general purposes of the corporation; and the other, by an application for additional powers, to the Legislature of the Territory. It is certainly safer to wait, until there is a prospect of this result, than it is to grant extensive powers, whose operation cannot be foreseen. Those who may succeed as in the duty of legislation, will be more competent than we can now be, to determine what new privileges future exigencies may require, and this question may be safely committed to them.

Besides, this section confers immediate vested rights, and whatever may be now done by the corporation, may be done at any time during the existence of the charter. Great changes may occur in the situation and public policy of the Territory, before the expiration of this law. What it may be proper to omit now, it may be hereafter necessary to prohibit, and it is certainly inexpedient to place this subject beyond the control of the existing legislature, merely to provide for a contingency which may never happen; and which, if it does happen, can be as well provided for then as now. I am inclined to think, that this general authority would give to the company the power of establishing branches in every part of the Territory. This is certainly a power, which should be reserved for the Legislature only.

4th. The 22d section vests in the company a general right of insurance, and the only restriction upon this right is, that fifty thousand dollars shall be paid in before it can be exercised, and that this fund shall be kept separate from the banking capital.

This power to "make all kinds of insurance," is too general in its terms for the public interest. It extends to fire, and to the hazards of the ocean and lakes. To life insurance, and to lottery tickets. And in fact, to every risk which the wildest spirit of adventure may prompt the parties to encounter. I have examined some of the insurance laws in the various States, but I cannot find one with powers as extensive as this. I confess, I am not able to foresee the full consequences of such a grant, but it is apparent, it may be applied to the promotion of objects, which every dictate of sound policy calls upon the Legislature to repress, rather than to encourage.

I think the company should be restricted to insurance against fire, or against the ordinary casualties of land and water transportation, or against both. And after this general limitation, such further securities should be provided as are usually found in the various statutes, incorporating similar institutions.

With these changes in the features of the bill, I would cooperate in giving it effect. Whether they shall be made, or the bill shall fail, I submit to the decision of the Council.

The act to incorporate the Stockholders of the Bank of Monroe, not being liable to any of these objections, has been approved.

LEW. CASS.

April 12, 1827

From *Journal of the Legislative Council*, pp. 121-122

To the Legislative Council:

I have signed the act for the relief of Samuel Phelps; but I have done it with some doubts, and with much reluctance. I am not entirely satisfied, that it is competent for the Legislature thus to interpose between the rights of the parties, and by a special act to grant a new trial seven years after judgment has been rendered, and when the defendant is in execution.

I am apprehensive also, that this act will open the way for future applications of a similar character, and that the final determination of suits will be thus indefinitely postponed. And what is perhaps still more dangerous, that the investigation of facts will be transferred from the Courts of law, which by their powers and organisation are peculiarly adapted to the cautious discharge of this duty, to a tribunal which is constituted for the purpose of establishing general rules, rather than for the application of them to contending parties.

Having understood however that this power has been exercised by some of the State Legislatures, and that in a case before the Supreme

Court of the United States, its exercise has been sanctioned by a judicial decision, I have yielded my assent to this particular case. But I owe to myself this expression of my sentiments and likewise the declaration, that I cannot foresee any possible circumstances, which will hereafter induce me, during my continuance in office, again to co-operate in a measure, which appears to me fraught with such dangerous consequences.

LEW. CASS.

April 13, 1827

From *Journal of the Legislative Council*, pp. 123-124

To the Legislative Council:

I return without my signature the bill to provide for licensing billiard tables.

Without entering into any general considerations upon the subject, I can only observe, that the measure does not appear to be called for by the state of society in this Territory, nor by any expression of public opinion; and that it will be attended with consequences injurious to the habits and morals of the community.

LEW. CASS.

April 13, 1827

From *Journal of the Legislative Council*, pp. 124-125

To the the Legislative Council:

I return without my signature, the "bill for the inspection of Provisions, Fish, and Whiskey."

The requisitions of this bill are too general for a local law, and too limited for a general one. I am ignorant of any circumstances peculiar to the counties of Wayne and Washtenaw, which require such a law, and which are not applicable to other parts of the Territory. If there are none, and the law be advantageous, it ought to be extended to them. If it be injurious, it ought to extend no where.

Particular circumstances, no doubt frequently call for local laws. Acts of incorporation are of this character; and were it thought proper to confine the operation of this bill to the city of Detroit, I should think it a salutary measure. In that event however, it appears to me it would be proper to give the particular regulations, as well as the appointment of the necessary officers, to the city authorities.

There are but two objects to be attained by inspection laws. One, and the most common object, in the United States, is to protect the

quality of the article, that it may acquire a character at the place of sale. The other, is to protect the purchaser at home.

If the former be the object of this bill, there certainly are other counties in this Territory which may be expected to export provisions, and in which it may be equally important to provide for the quality of the provisions. Fish, which is an important article of exportation, both in St. Clair and Chippewa, is not required to be inspected in either of these counties, and yet Washtenaw, in which no fish are taken, forms part of an inspection district, from which that article cannot be exported without the examination of an Inspector.

If the object of this bill be to protect the purchaser at home, it should be extended to those counties which depend upon importation for their provisions. If Washtenaw is now found among them, it certainly will not be so long. These counties are Michillimackinac, Chippewa, Brown, and Crawford. But neither of them are embraced in the bill.

LEW. CASS.

1828

May 6, 1828

From *Journal of the Legislative Council*, pp. 4-6

Fellow-Citizens of the Legislative Council:

In the discharge of the duties to which you have been called by our fellow-citizens, I am not aware that any important change is required in the existing institutions of the Territory. Defects will doubtless be found from time to time in our statute books, however cautiously their subjects may be considered, and the progress of settlement and improvement in the country will render it necessary to provide, by special acts, for such objects of local concern, as may require legislative interposition.—Our internal police, our schools, roads, and other subjects of importance, for the establishment and support of which our systems have not yet been matured and sanctioned by experience, will frequently claim the attention of the Legislature, until public opinion shall be satisfied with their condition and effects. But the great principles, which protect the rights of persons and property in our country, are too firmly established and too well understood to require or even to admit frequent or essential alterations. Their application and operation have been settled for ages, and it is the part of true wisdom to leave them, as we have found them, with such changes only, as may be necessary, to remedy existing evils, or to accommodate them to the advancing opinions of the age.

The act passed at the last session of the Council, providing for an apportionment of its members among the counties and districts of the Territory, has been carried into effect, so far as duties were enjoined by it upon the Executive. From the counties of Crawford and St. Clair no returns of the enumeration of the inhabitants were received, but complete returns were forwarded from all the other counties. The apportionment was made upon the principles stated in the act, and the result was announced in conformity with its provisions, by an Executive proclamation. Copies of the several papers relating to this subject will be laid before you.

The revised statutes of the last session have been in force too short a period to ascertain their general operation. A few defects have been discovered, inseparable from the execution of such a task, which will doubtless engage your attention. The most important among these is in the law providing for the empanneling of juries, which has occasioned considerable delay in the administration of justice.

In former communications to the Legislature, I have submitted my

views respecting our militia laws, our system of public instruction, our plan for opening and making roads, and our mode of supporting paupers.—These are all objects of primary importance, to which public attention in the United States has been long directed, but without any general union of sentiment respecting the most practicable method of obtaining the desired results. It is very evident, that our own efforts have not been successful, and that much care and research will be necessary, before the laws relating to those topics assume such a shape as is called for by a regard to our present or future interests. I again recommend them to your consideration.

It appears to me indispensable, that some law should be passed regulating the construction of milldams, in situations where public health may be endangered by them. The longer this subject is postponed, the more difficult will it be to reconcile the conflicting interests which will naturally arise. In some sections of the Territory, the evil has already operated to a considerable extent, and it may be expected to increase with our advancing settlements, unless some plan can be devised, by which the rights of individuals and of the public may be clearly defined and mutually secured, if not reconciled. Our laws are generally punitive, rather than preventive; applying penalties after the act has been committed; but this case seems to call for the interposition of some authority which may investigate the subject before the injury is committed, and regulate the proposed erection, as circumstances may require. Such a power, vested in the county courts, would probably be exercised cautiously and impartially.

The counties already laid out in the Territory, are bounded on the west by the principal meridian, but since their establishment, a considerable portion of the country between that line and Lake Michigan, has been surveyed and will probably be brought into market during the present year. From the fertility of its soil, and other advantages, we may anticipate its speedy sale and settlement, and there is already a considerable population occupying it. It has been found in the Western States, that when the boundaries of counties are left to be established after the country is purchased and settled, such conflicting interests arise, as to render it difficult to perform that duty with a proper regard to the public interest. Local feelings are excited, and private interests created, which cause dissensions, whose effects are permanent, and too frequently extend beyond the limits of the counties themselves. To obviate such a state of things, I suggest the expediency of establishing the boundaries of a proper number of counties in that district, to be organised hereafter, when circumstances may render such a measure necessary. A certified plat of the country has been transmitted to me by the

Surveyor General, which will furnish all the information necessary to the accomplishment of this measure.

The expense of the Territorial Government is defrayed by the United States, and taxes are therefore only required for objects of internal police. I am satisfied that a re-examination of the various acts authorising the imposition of taxes, and of the objects to which these are applicable, would enable you materially to diminish the burthen upon the community. There are not less than five different officers, under the laws regulating county and township concerns, who collect or receive taxes levied upon the people. All these persons must be paid, and are paid, and the probability of a loss to the public, is greatly increased by this multiplication of officers. The machinery is too complicated for the situation of the country. In all the counties, except the county of Wayne, one half of one per cent, upon the assessment rolls, may be collected for county purposes, and as much more for township purposes, making one per cent upon the whole capital of the county, for objects purely local, and having no relation to the government of the Territory. There are few sections of the Union in which these taxes are so heavy, and I recommend a consideration of the subject, with a view as well to a simplification of the system itself, as efficiency and economy.

I do not consider it necessary to urge upon your attention a great variety of topics. I have adverted to those only which seem to claim more immediate attention. Selected as you are, from the different sections of the Territory, you bring with you the opinions and feelings of your constituents—and I am far from thinking that a multiplicity of laws afford any evidence of legislative wisdom.

The prospects of the Territory continue to be encouraging. Emigration is rapidly adding to our numbers; and settlements are advancing, and a spirit of improvement is visible in every part of the country.

The liberality of the general government, in its expenditures for roads and other objects of important concern, demands our acknowledgment. It cannot be long before we shall be entitled to claim our admittance into the Union as an independent member of the confederacy. In the mean time, it becomes us, by wise and wholesome laws, and still more by a faithful administration of them, to advance the character and interest of the Territory; to lay the foundation of public prosperity in the wisdom and intelligence of the community; and to direct our efforts to the prevention of crimes rather than to their punishment.

As it is my duty, so it will be my object to co-operate with you in every effort to promote these measures, so important to our interests now and hereafter.

LEWIS CASS.

May 19, 1828

From *Journal of the Legislative Council*, p. 27*To the the Legislative Council:*

There are seven Indians of the Winnebago tribe confined at Prairie du Chien, two of them charged with the murder of the family of Methode, in March, 1826, three others, charged with the murder of two persons in Gagnier's family, in June, 1827, and two others, charged with the attack upon a boat descending the Mississippi, in June, 1827. The Government is desirous that these persons should be tried as soon as practicable, and a trial is demanded as well by policy as by justice. They have been some months in confinement, and their apprehension and detention have caused considerable excitement among the Indians in that quarter. This will probably continue, and perhaps increase, until their fate is ultimately known. The annual term of the Superior Court of the county of Crawford is in the month of May, and the Judge has been prevented from holding it during the present month by the expiration of his term of service; and by the necessity of his repairing to this place to take the oath of office prescribed by law.

Under these circumstances, I recommend that provision be made for a special session of that Court, sometime during the summer, at which these persons may be tried.

I also recommend a re-examination of the Jury law, with a view to its application to the circumstances of Crawford county. Some of the requisitions of the present law cannot be enforced there, and the proceedings of the Courts must be stayed until the necessary alterations are made

LEW. CASS.

May 22, 1828

From *Journal of the Legislative Council*, p. 35.*To the Legislative Council:*

By a resolution of the Legislative Council, of April 13, 1827, the Governor was authorised to cause an Index and marginal notes to be prepared for the volume of Laws passed at that session, and to allow a reasonable compensation therefor, to be paid out of the contingent fund. William F. Moseley, Esq. was appointed to carry into effect the object of this resolution, and he has satisfactorily performed the duty assigned to him. The Index is, in general, well prepared, and the marginal notes judiciously digested; but there are no funds at the disposition of the Executive, from which Mr. Moseley can be paid; and as it is therefore necessary for the Council to act upon the subject, I have thought it better to refer the whole matter to them, that they may allow such a compensation, for the performance of this duty, as may appear to them just.

LEW. CASS.

1829

Sept. 8, 1829

From *Journal of the Legislative Council*, pp. 4-6.

Fellow-Citizens of the Legislative Council:

I have heretofore communicated to the Legislative Council such subjects for their consideration, as the public interest appeared to me from time to time, to require. I am not aware that any change has occurred in the condition of the Territory, or any important defects been discovered in the operation of the present system of laws, since the last session of the Council, which makes it necessary for me to renew, or add to, the subjects formerly communicated to you. Being well satisfied, that the stability of the laws is essential to the security of private rights, and to the due administration of justice, I doubt the expediency of legislative interposition on every occasion, where evils may, or may be supposed to exist. Too much legislation must impair the obligation of the laws, by impairing that respect for them, which, in a free country, constitutes the best security for their observance, as well as the most efficient agent in the punishment of their infractions.

The progress of improvement and settlement in our new country will occasionally render necessary, the passage of laws, some of them local in their operation, and others, temporary in their duration. And the greatest caution cannot at all times, prevent the admission of inexpedient and conflicting provisions, in a system of laws which embraces most of the complicated relations of life. Coming, as you do, from every part of the Territory, and bringing with you the public sentiment upon these and other topics, you will be enabled to discover such evils as may exist, and to apply the proper remedy.

The relations subsisting between a Territory and the United States, while they lessen the burden upon the community, circumscribe the sphere of Executive recommendation, and of legislative duties. Some of the most important objects of general legislation are either withdrawn from the local legislature, or met by appropriations from the Treasury of the United States. Under these circumstances, and with the conviction already expressed, of the inexpediency of disturbing our present system, it is unnecessary for me to submit for your consideration, a great variety of objects, or to exhibit a view of the general situation of the Territory. That situation is as prosperous, as perhaps any portion of the Union, and its general progress in all the elements of improvement will soon bring before our fellow citizens, the question of a change, from a colonial, to an independent condition.

A bill was introduced into the House of Representatives, and passed that body at the last session of Congress, providing for the establishment of a new Territory, west of Lake Michigan, and leaving to the Territory of Michigan, the boundaries fixed by the Act originally organising it. This bill did not pass the Senate, but it is probable the subject may be more successfully prosecuted at the next session of Congress. The opinion of the Legislative Council in favor of this measure has been expressed in their memorial to Congress, and I am not aware that it can injuriously affect our interests. The district of country where the new Territory is proposed to be established, is too extensive, and too remote from the Peninsula of Michigan, to form with it, a constituent and permanent part of the same government.

The country upon the St. Joseph, has been offered for sale since your last session, and the result has justified the anticipations of those best acquainted with its climate, soil, and other natural advantages. The influx of population there has been great, and in fact, the migration to the Peninsula generally, during the present season, has exceeded our annual increase from that source, for some years. The whole country has enjoyed uninterrupted health, and has been blessed with an abundant harvest. It is difficult to form an estimate, with any accuracy, of the present amount of the population of the Territory. From the sale of the public lands, the progress and increase of the settlements and improvements, and the number of emigrants who arrive among us, it is evident that our numbers have greatly increased, since the last enumeration. As our right of admission into the Union depends upon the amount of our population, it appears to me expedient to provide by law, for taking a census of the inhabitants, that our fellow citizens may be enabled to judge at what time application shall be made to Congress for that purpose. I shall be much deceived, if such a census does not exhibit a result, which will necessarily bring before the people the consideration of this important question. It is a subject upon which, perhaps, it does not become the Legislative and Executive departments of the Territorial governments, to express an opinion. But it is important that the facts, necessary to a just determination of it, should be at all times before the community; and with this view, I recommend that provision be made for a census. Should the result of this measure correspond with the anticipations herein expressed, it will then be in the power of the people to apply to the general government for admission into the Union, under the laws which have guaranteed to us that high privilege. I need not advert to the considerations which render such a change desirable. They will be felt and appreciated by the citizens of the Territory.

I have only to add, that I shall cheerfully co-operate with you, in

the accomplishment of all measures, calculated to promote the interests committed to our charge.

LEW. CASS.

Oct. 21, 1829.

From *Journal of the Legislative Council*, pp. 81-82.

To the Legislative Council—

I return without my signature, the bill to set off and organise the townships of Lima and Richland, in the county of Wayne.

The act of April 12, 1827, concerning town plats, prohibits the incorporation of any township under any name contained in the general list of Post-Offices of the United States. On examining that list, I find one post-office with the name of Lima, and four postoffices with the name of Richland. It appears to me improper, while this act is in force, that names should be affixed to townships contrary to its provisions.

LEW. CASS.

Oct. 28, 1829.

From *Journal of the Legislative Council*, p. 96.

To the Legislative Council:

At the last session of Congress an act was passed, extending to the citizens of Florida and Arkansas the privilege of electing almost all the officers, holding their offices under the Territorial laws, and authorising the local Legislature to appoint the few, not rendered eligible by the people. I see no reason why the principles of this act should not be extended to this Territory, and I submit for your consideration the expediency of an application to Congress for that purpose. I believe it will be found, that appointments thus made will be more satisfactory than when they are made upon the nomination of a single individual. The people in their respective counties are better acquainted with the qualifications of candidates for the offices of Sheriffs, Clerks, Justices of the Peace, and for other county offices, than any Executive magistrate can be, and more competent to determine upon them. This measure would give to the people a direct and proper influence in the management of their affairs. An influence, which at all times ought to be exerted in a Republican government, and which will be more fully exerted in that change of our political condition, to which we are rapidly approaching.

LEW. CASS.

1830

May 12, 1830.

From *Journal of the Legislative Council*, pp. 4-12.

Fellow-Citizens of the Legislative Council:

You have assembled, in the discharge of the important duties assigned to you, under circumstances favorable to the Territory, and calling for our acknowledgments to that overruling Providence, under whose blessing this heretofore remote section of the United States is becoming the abode of a civilized and religious people.

Since your last session no material change has occurred in our local affairs. The progress of improvement and settlement is rapid, and promises to become more so. The prospect of migration to the Territory is highly encouraging; and the approaching season will probably witness a greater accession to our numbers, than we have received in any preceding year. As a better knowledge of the climate and other advantages of the Peninsula is spread through the United States, and as the facilities of communication with it are increased, we may look forward to an increase of wealth and numbers, not more desirable for those, who are already established in the Territory, than for those, who seek by a change of residence, a participation in the advantages, which are here offered to all.

A variety of measures, interesting to the Territory, have already been acted on, or are pending before Congress. Among these, are appropriations for roads, light-houses, &c. a proposition to add another Branch to the local Legislature, and to extend the elective franchise, and several other matters of subordinate importance. From the spirit of kindness and liberality heretofore manifested towards us by the general government, we may confidently anticipate a favorable result to most of these measures. They will materially improve our condition, and add to our means and motives for exertion.

In examining the geographical features of the Peninsula, and the facilities of intercourse which it possesses, as well internally as externally, the great extent of inland navigation around it and through it presents advantages of communication, rarely equalled. From the mouth of the St. Joseph, at the Southern extreme of Lake Michigan, to the mouth of the Maumee, at the Southern extreme of Lake Erie, our whole border is washed by the great Lakes, and by the straits connecting them. But there is one obvious and signal improvement, which could be made, and which no doubt eventually will be made. And that is, to unite the mouth of the St. Joseph with our eastern coast, by a canal or rail-road,

as experience may establish the superiority of either, across the base of the Peninsula. The country presents no formidable obstacle to the execution of these works. It is generally level and well watered. And the summit on each side, with the exception of one small tract, is attained by a gradual and imperceptible elevation. There is probably no similar extent of country in the Union, where less labor or expense would be required, to produce so important a result. The advantages, which such a communication would afford to the fertile region upon the St. Joseph, as well as to all the Southern portion of the Peninsula, render the project worthy of your serious consideration. It is connected also with the military defence and permanent security of the frontier; for, in a state of war, the necessary intercourse between Lake Erie and the country upon the Upper Lakes could be preserved, without incurring the danger of passing under the guns of a hostile shore for many miles. In this point of view, as well as in the facilities of communication, which would be afforded to the States of Indiana and Illinois, and in the extent of navigation to be avoided,—a navigation frequently hazardous, and generally more interrupted than an interior route would be—this work may be considered a national one. And it cannot be doubted, but that the general government would regard it favorably, were the advantages which it offers better known. I invite your attention to the subject. By inquiry and discussion, it will be brought before the community; and should you succeed, by an application to the President, in procuring the necessary surveys and examinations, definite information would then be furnished, by which the practicability, expense and advantages of the plan might be determined.

At the last session of the Legislative Council, an act was passed, requiring all Justices of the Peace to give bonds for the payment of all money collected by them, and providing, that all Justices of the Peace then in office, should give such bond on or before the first day of the succeeding January, and in default thereof should be *ipso facto* removed from office. In some of the counties, this law was unknown, until after the period limited for the execution of the bond. They were thus left without Justices of the Peace, greatly to the inconvenience of the people, and to the delay or neglect of justice. It appears proper, that some provision should be made for legalising the acts of officers, done under these circumstances. And I submit for your consideration, whether in all future legislation, it will not be prudent to fix such a period for the taking effect of laws, as will ensure their previous promulgation over the extensive region, embraced within the Territory. There can be no more serious evil in a government of laws, than changes in the statutes concerning rights and remedies, crimes and punishment, which must operate upon the community, before their existence can be

known. That portion of the Territory between Lake Michigan and the Mississippi, is so far removed from the seat of legislation, and the communication with it is so dilatory and uncertain, that much time should be allowed for the publication and distribution of the laws. The convenience of the people in that district calls for the establishment of a separate Territorial government; and a bill for that purpose has been reported at the present session of Congress. Should it pass, the local concerns of the new Territory can be managed more acceptably to its citizens, by a Legislature chosen and deliberating among themselves, than by one holding its sessions in this place. Should it, however, not pass, a revision of some of our laws, with a view to their better adaptation to that section of country, may be justly expected by its citizens. In the county of Iowa, there are no freeholders, nor can there be any, until the public lands are surveyed and sold. Those statutory provisions therefore, which require the aid of freeholders, are wholly inapplicable to the present condition of that district. Among these, is the law prescribing the qualifications of the sureties to sheriff's bonds; and the consequence is, that no sheriff can comply with the requisition. So far as may be consistent with the Ordinance and Acts of Congress, it would appear expedient, that every power, necessary to the police and good government of the District, should be exercised by the people there, without the intervention of the distant Territorial authorities. And it may be safely exercised; for the experience of the United States, during half a century of self-government, demonstrates that the people are the safest depositories of their own power. Much may be done to relieve the condition of that district, by accommodating the laws to its peculiar circumstances.

A judicial system, wisely organised and faithfully administered, is among the most important cares of society. Our own has been frequently changed, but there is reason to believe that its present constitution is not favorable to the attainment of the great objects of public and private justice. Speedy and impartial justice is guaranteed by the Ordinance, but the obligations connected with this duty, depend upon even higher principles than written constitutions. They are deeply engrafted in human nature, and recommend themselves with great force to the American people. The Legislature may ordain, and the Executive may endeavor to see, that the laws are faithfully executed, but the efforts of both will be vain, unless the Judiciary is enabled, by its organization, to administer public and private justice, speedily and impartially. It is the only department of the government which can be brought directly into contact with the people. Possessing a power, which derives its efficacy, more from opinion than strength, it is due

to those who are clothed with it, as well as to the community themselves, that the system of administration should be suited to the circumstances of the people, for whom it is prescribed. The number of organised counties is every year increasing, and even now the duties are laborious. If the Circuit Courts were held by one Judge, these duties would be much lighter. And an appeal from his decision to the Supreme Court, would give to the parties the benefit of the opinion of two judges, who had not heard the cause. I am satisfied, that by a judicious revision, much may be done to expedite the business of the Courts, and to diminish the labor and expense of Judges, officers, and suitors.

Great inconvenience is experienced, in consequence of the want of regular returns in the militia. The arms provided by the annual appropriation, made by the General Government for arming the militia, are divided among the several States and Territories, in proportion to the numbers returned by each. It is therefore important, that our actual strength should be exhibited. But unfortunately great negligence prevails, and the aggregate, shewn by the returns, is far less than the actual state of our numbers requires. An efficient remedy can alone be found, in the application of a rigorous penalty to every officer, failing to make prompt and regular returns. The duty is so easy in itself, and its results so important, that there should be no excuse. If persons will accept commissions, and cannot find sufficient motives for the faithful discharge of their duties in their own pride of character, and in the obligations voluntarily assumed by themselves, the public good requires that other motives for exertion should be supplied. Great diversity of opinion exists in the United States, respecting the value and efficiency of our present militia system. But whatever may be thought upon this subject, while the laws exist for its organization and discipline, they should be enforced. And if the experiment of breaking down our whole system of national armament is any where to be made, it ought not to be made upon a distant and exposed frontier. There are peculiar circumstances, arising out of our local position and the character and political connexions of a race of people within our borders, which admonish us, that we ought not to be unprepared for events, which may again happen, as they have before happened. A large standing military force is equally incompatible with the genius of our government and the spirit of our institutions. And we must therefore rely, in any sudden exigency, upon the zeal and spirit of the great body of our citizens. Nor is our history wanting in lessons of experience upon this subject. Some of the most brilliant events in the war which achieved our independence, and in that which preserved it, are due to the courage and conduct of the militia. And the first and

the last battles in our military history are proud monuments of the valor and devotedness of men, who feel they are fighting for a country, in which each has a deep interest. And Bunker's Hill and New Orleans will be associated with recollections, dear to the American people.

There is no subject, to which your attention can be directed, more important in its immediate and remote effects, than the establishment of a practical system for the support of Common Schools. While the wealthy can at all times command ample means for the education of their children, those in moderate circumstances should be aided, and their strength united and rendered efficient, by Legislative authority. I am apprehensive, that our present laws upon this subject are entirely too complicated for practical operation. Many of the provisions are wise and just, but many others do not seem adapted to the circumstances of a new country. The efficiency of a system entering so much into the relations of private life, must depend essentially upon its simplicity, and upon its adaptation to the situation and opinions of the people. And if there are existing defects, which can be remedied, or if a plan can be substituted, which shall promise more useful results, you cannot render a more important service to your constituents, than by an earnest re-examination of this subject. While the Territory is settling, its character is forming. Our citizens are brought together from various sections of the Union, and a common feature is yet to be impressed upon them, their laws and institutions. And to the virtue and intelligence of the rising generation we must look for the issue. Although extreme poverty is almost unknown among us, yet there are many families unable, from their local position or other unfavorable circumstances, to procure a competent education for their children. In aid of these particularly, provision should be made by law. No wiser or juster tax can be levied, than one devoted to this object. In the general stock of public information, it ensures the community an abundant return for all the supplies required to produce it. The children of the poor should be the pupils of the country. It is among the proudest of our privileges, that all offices are open to all. And in the practical application of this principle, our Executive magistrates, our Judges and Legislators, are called from every part of society. We have therefore a deep interest in the preservation of morals and religion, and in the cultivation of the heart and intellect. And it becomes still deeper when we reflect, that the foundations of our country rest upon public opinion. That opinion, to be safe, must be enlightened. It is not necessary to revert to the experience of other times to be satisfied, that the forms of freedom may exist, and yet the great body of the people be oppressed. The struggles in the Southern part of our own hemisphere are living witnesses of

this fact. And if our institutions are to outlive the term, heretofore assigned to republican governments, the life-preserving principle must, under Providence, be found in the knowledge and virtue of the American people.

The reports of the Auditor and Treasurer will be laid before you. You will learn from them the state of the Treasury and of the demands upon it. The Act passed at your last session has already produced more regularity in the payments, required to be made to the Treasury. But the system would be still farther improved, by rendering the mode of proceeding against delinquent officers more prompt and simple. Where public money, received as a public trust, is wilfully withheld, neither justice nor policy require, that unnecessary embarrassments should be interposed by the forms of the law, to its collections. Such however is the case, and the injury has already been felt. The Government of the United States, as well as the government of many, perhaps most of the States, has provided a summary mode for the collection of money thus received and withheld. The introduction of such a provision here, by which judgments could be obtained, upon motion, and an interdiction of any offsets, which had not been previously submitted to the Auditor, would promote the public interest. By giving to it a prospective operation only, no individual rights would be impaired.

I submit to you the report of the Commissioners, appointed by the Acting Governor, to examine and select a proper site for the seat of justice of the county of Jackson. There is no provision in the existing laws, prescribing the mode in which the seats of justice of the unorganised counties shall be fixed. Since the establishment of the Legislative Council, the duty of selecting these sites has been performed by Commissioners, appointed by them. I understand the persons interested in the settlement of Jackson county, requested the Acting Governor to appoint three Commissioners to make the necessary examination, and select and report the proper place for the seat of justice. What has been done, can however be considered in no other light, than as a medium for the collection of certain facts and their submission for your consideration. No objection is known to exist to the report of the Commissioners, but it will rest with you to determine whether it shall be accepted, and validity given to the proceedings. From the information which has reached me, I have no doubt, but that the immediate location of the seat of justice upon the spot designated, would be important to the interests of that portion of the country. You will be gratified to find, that the Commissioners speak in favorable terms of the soil and other natural advantages of that county, and from their character, as well as from corroborating information, I am satisfied, that the prospects

which it offers, are highly encouraging, and that it is destined to become an important section of the Territory.

A change in the law, providing for the appointment of a Territorial Surveyor and his deputies, has been recommended by that officer, and appears to be necessary. The duties and emoluments of the principal office, are not such as to induce any person to devote his time or attention to it. And the necessary surveys can be more conveniently made in the respective counties, by persons residing there, than by an officer living at a distance. I believe there will be no difficulty experienced in finding competent persons in each county, ready to accept the office of County Surveyor. And whether it should be filled by election or appointment, the additional responsibility would have a tendency to ensure its more faithful execution.

A rigid system of economy, in the administration of our local concerns, is required by the state of the Territory. The legislative, executive, and judicial departments of the government are supported at the expense of the United States. All, therefore, that our citizens are required to provide for, is the ordinary township and county police and expenditures. And yet, for these, an amount of taxation is required, certainly greater than the extent or importance of the objects justify. I recommend to you a revision of the various laws, providing for the imposition of taxes. It will be found, that there is too much machinery in their operation, and that many of the powers conferred by them are not sufficiently limited. There are not less than six different boards or authorities, empowered to control and direct public expenditures, and some of them authorised to levy taxes. Each of these has officers, to collect, to receive, and to expend the money. It is not possible, with the liberal expenditures made by the general government, that these extensive powers and this complicated arrangement can be necessary. By one of our laws, real property may be sold without redemption, within forty-two days after the assessment of the tax; leaving that brief interval only, for the necessary notice to the parties, for their compliance, refusal or neglect, for the compulsory proceedings by the officer, and for the absolute transfer of the property. Such hasty proceedings must produce great injury, not only to our own citizens, but still more to non-resident land-holders, who can scarcely learn the existence of the tax, before its collection has been enforced at a heavy sacrifice. As officers and their duties are multiplied, the public expense is increased. And the risk of loss is also increased, in proportion to the number of persons, required to collect and receive the public funds. There seems also to be no necessity for directing an annual assessment and valuation of all the real property in the Territory. Provision might be made for the periodical assessment of land, acquired

from the United States, and of such as has changed its value by the erection of buildings or by other improvements. But where no change in the property has taken place, the expense of these renewed assessments is not only unnecessary, but they occasion fluctuations in the estimate of the property, and in the consequent imposition of the taxes, which create discontent. And every year, a new discretionary authority is brought into action upon a subject which, of all others, should be guarded as far as possible, by plain and precise enactments.

In reviewing the history of our legislation, it is obvious, that in many instances, sufficient time has not been allowed to test the value of laws, before their repeal or alteration; and that in others, they are wholly inoperative, and are in fact, dead letters upon the statute book. Where laws are unnecessarily multiplied in their number and complicated in their provisions, and particularly where they enter too far into the relations of society, they will remain unexecuted. And the evil extends to the whole legal code. The obligation of obedience generally is impaired, and a habit of indifference created, equally injurious to the community and the government. Upon the rigid execution of the laws, far more than upon their number and penalties, depend their salutary effects upon society. And wherever statutes are found unexecuted, and there is a general indisposition to their execution, it would be better to repeal them, than to suffer them to remain, inviting by the example, to the neglect of other and more important requisitions. Among the acts, whose execution is thus neglected, is that respecting black and mulatto persons, and which was presented by the Grand Jury of the county of Wayne, at the last session of the Circuit Court, as unconstitutional. If this act is deemed constitutional and expedient, measures should be taken for its due execution. Otherwise, it should be expunged from the statute book. If there is any thing in the Ordinance or Acts of Congress, which interdicts the legislative authority from prohibiting the immigration, without due precaution, of a class of persons, too many of whom are idle and dissolute, and may be thrown upon the community, with neither the disposition to support themselves by honest industry, nor the means of doing it without, we have only to submit to a state of things, which probably will eventually bring with it its own remedy.

From the relations subsisting between the government of the United States and their Territories, the latter are exempted from the operation of many of the causes, which have excited the public mind throughout the Union. But although we have no voice in the election of those, who are called to administer the general government, yet our rights have been not the less secure, nor the favors extended to us, less numerous and important. I believe our citizens generally fully appreciate the

kindness, manifested towards us by the government, and the promptitude and liberality with which appropriations for our benefit have been made. A short time must terminate this connexion, and place us in the same attitude of independence, which so many Territories have already assumed before us. It is desirable, not only for our immediate peace, but still more for our future prosperity, that seeds of discord should not be rashly sown, to ripen hereafter into an abundant harvest of discontent. There are no questions of principle or policy, in the administration of our local concerns, to divide us. And we have no participation in the councils of the general government. Most of the prevailing causes of dissension, which, if they mark the ebullition of feeling in the United States, shew the safety with which it may be indulged, are unknown among us. And we are all equally interested in the progress and prospects of the Territory; in an accession of numbers and wealth; in the introduction of wise and wholesome laws, and the prompt and impartial administration of them; in the establishment of institutions, supporting and supported by the intelligence and virtue of the community; and in the formation of a character, not unworthy of a member of the confederacy. With all these motives to a common feeling and a common effort, I trust our fellow-citizens will discountenance any attempt to divide their affections, or to array one portion of the community against another.

LEW. CASS.

July 27, 1830

From *Journal of The Legislative Council*, pp. 97-98

To the Legislative Council:

I return without my signature, the bill entitled "an act concerning townships."

The practice of giving the same name to different places in the United States, has been long found a serious inconvenience. An eminent French traveller, alluding to this subject, more than thirty years ago, said: "and thus has America become a kind of second, though as yet, by no means, an improved edition of Europe, especially of England and Germany." Since that time, the evil has gone on increasing, and the reproach is more just now, than then. The repetition of the same names has proceeded so far, as to call for some check. It tends to introduce confusion into the geography of the country, and to occasion the misdirection and loss of letters, entrusted to the mail. The act entitled "an act concerning townplats," and which is proposed to be repealed

by the bill now returned, applied a simple but efficient remedy to this state of things, and a remedy which was coextensive with the evil. It provided, that no town plat should be admitted to record, if the name proposed to be given to it, was contained in the general list of post-offices in the United States. And as the selling of lots in any town, before the plat is recorded in the proper office, is rendered penal, the proprietor is necessarily led to the introduction of a new name. And I see no reason for the repeal of this provision, nor for the limitation of the principle, as proposed in this bill, to names already given in the Territory. The wish to transfer to a new country, names familiar to us is an old one, is perhaps connected with a natural association. But when the wish cannot be indulged without practical inconvenience, it is surely better to abandon, than to gratify it. Names are arbitrary, and only useful as they designate the objects. By continued multiplication, the very end sought to be attained by them, is lost. Whatever name is given to a place, use soon renders familiar, and by adhering to the principle that has been laid down in this Territory, we shall escape the inconvenience, which has been elsewhere experienced, and present an original list of names, instead of an *English or German edition*.

LEW. CASS.

July 30, 1830

From *Journal of The Legislative Council*, pp. 121-122

To the Legislative Council:

I have received, agreeably to your resolution of yesterday, a number of applications from many respectable citizens of Wayne County, requesting that an election might be held, to nominate some person to fill the office of Sheriff of that county.

I presume these applications were made to the Council, in the first instance, and not to the Executive, because a nomination for Sheriff of that county had been made, and was pending before them. As I had submitted the subject to them, it was well thought, that the proceeding requested, if it took place, should take place through some other authority than mine. I am always happy to receive the public sentiment, in any way my fellow-citizens may think proper to offer it. And previously to submitting a nomination to the Council, it will gratify me to learn what are the views of the community in relation to it. And these views will always have great weight with me. But under the circumstances of this case, I cannot direct an election to be held. Being

unwilling, however, to deprive the Council of any aid which they can receive, in the discharge of their duties, from an expression of the public opinion, I will make such disposition of the papers, with a view to that object, as they may wish.

LEW. CASS.

July 31, 1830

From *Journal of the Legislative Council*, p. 136

To the Legislative Council:

I return the bill entitled "an act to alter and amend certain acts therein named, relative to Bail," because it seems to involve some new principle, of the operation of which I am doubtful, and the late hour at which it has been presented to me, does not allow time for its examination. At the next session, the subject can be reconsidered by the Council, or if they prefer, I can then maturely examine the bill, and withhold or affix my signature, as the subject may seem to require.

LEW. CASS.

1831

January 5, 1831

From *Journal of the Legislative Council*, pp. 4-13

Fellow-Citizens of the Legislative Council:

The short interval of time, which has elapsed since the termination of your last session, has furnished few topics of sufficient importance, to be made the subjects of Executive communication. Such however, as the public interest seems to me to require, I shall submit for your consideration.

The progress of the Territory in population and improvement continues to be rapid and uninterrupted; and the immigration, during the past season, has far exceeded that of any preceding year. By the census, which has been recently completed, the number of our inhabitants, was on the first Monday of June last, 31,698; of which the peninsula and the counties of Michilimackinac and Chippewa, which in their interests and geographical position are intimately connected, and should be so in all their future political relations, contain 28,010. The counties of Brown, Crawford, and Iowa, comprehending that part of the Territory west of Lake Michigan, have a population of 3,688 persons. Application has heretofore been made to Congress, and measures have been taken for its renewal at the present session, by the inhabitants of that country, for the establishment of a new Territorial Government, and to such a proceeding no just objections can be urged by this portion of the Territory. Separated as they are from us, by distance, and inland seas, which, if they facilitate the communication during one part of the year, interrupt it during another, it would be neither for their interest nor ours, that the whole of this extensive region should be permanently united under the same local government; and their convenience would no doubt be promoted by a dissolution of the connexion, and the formation of a new Territory. The first step in the political history of the western settlements, not only provides for all the purposes of temporary government, but prepares the way for the admission of new members into the confederacy; thus admirably extending the operation of the General and State Governments, as the sphere of civilization and improvement is enlarged by the exertions and enterprize of our citizens.

Although the result of the census may not fully equal our expectations, yet the rate of increase, during the last ten years, may well compare with that of any portion of the Union. This rate has exceeded two hundred and fifty per cent., and if to this be added the increase by immigration, since the first Monday of June last, we shall have full cause to

be satisfied with our progress and prospects. We are rapidly approaching the period, when our present temporary government will be dissolved, and succeeded by an independent state government, instituted by the people, and for the people—when we shall enter, as an equal and constituent member, that confederacy of republics, under whose care and protection we have attained our present state of improvement.

A new apportionment of the representation is required by the changes which have taken place in the relative population of the various sections of the Territory. And you have now sufficient data to make this apportionment, satisfactorily and equitably.

An effort has been made to detach the counties of Michilimackinac and Chippewa from the Peninsular Territory, and to annex them to the new government, which is asked for west of Lake Michigan. Such a measure would be equally injurious to our rights, and subversive of our interests. The act of Congress of January 11th, 1805, establishing this Territory, defined its boundaries, and guaranteed to the inhabitants, then living, or who might hereafter live, within them, many political rights, dear to the American people, and without the enjoyment of which, our citizens would never encounter the difficulties and hardships, incident to the settlement of a new country. Among these, not the least important is the right of admission into the Union, when our population shall equal the number prescribed in the Ordinance of Congress of July 13, 1787, which laid the foundation of the governments of the States and Territories, north-west of the Ohio river. If we have any security for the political privileges we enjoy, or expect to enjoy, we have the same security, and that is the faith of the United States, for the integrity of the territorial boundaries, established by that act. A line drawn through the middle of Lake Michigan to its northern extreme, and thence due north to Lake Superior, which is our western boundary, leaves the inhabited portions of the counties of Michilimackinac and Chippewa in the original Territory of Michigan. To the country west of that line we have no claim. It was not annexed to the Territory until 1818, when Illinois was admitted into the Union, and in the act of annexation, the right is expressly reserved of making such future disposition of it, as Congress might deem expedient. It was intended as a temporary measure, to be followed by the establishment of a local government, when circumstances should require it. If these two counties can be separated from us, so may either of the Peninsular counties, and our whole country may be thus subdivided, and our admission into the Union indefinitely postponed. I submit for your consideration, whether a renewed expression of your own views and of the expectations of your constituents, upon this subject, would not be expedient; and whether in the

event of an immediate decision adverse to our interest and expectations, such a measure would not be an important proceeding hereafter to refer to, when a change in our political relations may enable us again to bring forward this question under more favorable circumstances. For it is impossible this community should acquiesce in such a dismemberment of their territory, without using all the means in their power, now and hereafter, to present the facts and considerations upon which we rely, to the general government, and to urge the recognition of our rights.

While an effort is making or contemplated to sever from us that part of our North-western frontier, which commands the communication between the three upper lakes, the States, which adjoin us upon our Southern boundary, have preferred claims to portions of the Territory, which, if finally established, will still farther reduce our extent and future importance. Indiana asserts and exercises jurisdiction over a tract of country, ten miles north of our southern boundary, as defined in that irrevocable law, which gave and guarantees to us our political existence, and extending from Lake Michigan east, along the whole northern frontier of that state. That this claim will eventually be contested on the part of this Territory, or of the State, which must soon be established here, there is no doubt. And as we have every confidence in the justice of our cause, we may reasonably look forward to a favorable decision. As however the rights of the parties rest upon conflicting acts of Congress, and as Indiana has possession of the tract in question, a prudent regard to circumstances will probably dictate a postponement of the subject, until we shall be admitted to a participation in the councils of the tribunal, by which it must be determined.

But the claim of Ohio to that part of this Territory, lying between a line drawn due east from the southerly bend of Lake Michigan, and a line drawn from the same point to the north cape of the Maumee Bay, presents considerations of a different nature. The possession of this tract of country, and the jurisdiction over it are in this Territory, and all the acts of the general government, in relation to the subject, from the ordinance of Congress of July 13, 1787, are uniformly favorable to the establishment of the existing boundary. Ohio seeks a change upon principles which may be as well met now as hereafter; and as the matter has been recently submitted by the Governor of that State to the consideration of the Legislature, it is probable that some legislative measures may be adopted, having in view an examination of the question, and a decision favorable to the claim they have advanced. In this state of things, I suggest the propriety of a memorial being presented to Congress, which shall state distinctly the rights of this Territory, and the sentiments and feelings of its inhabitants upon the subject. Unless I am greatly de-

ceived in my views, a succinct statement of our claim is all that is necessary to insure its confirmation.

I lay before you copies of two letters, written in 1820, by Mr. Woodbridge, then acting Governor and Secretary of this Territory, one addressed to the Governor of Ohio, and the other to the Secretary of State of the United States. These letters contain a very able exposition of our case, and appear to me, as well in the course of the discussion, as in the conclusions they draw, to be unanswerable. As the subject, however, is very important to the future interests of the Territory, I may be excused for presenting a brief summary of the view, which I have taken of it.

It is not necessary, at present, to enter into a consideration of the question, whether under the original Ordinance, Congress could change the fundamental line, running east and west from the southern extreme of Lake Michigan. It will be time for us to contest this point, when that change is made. We may yet safely rely upon the legislative acts of the government, which originally established the boundary line between this Territory and the State of Ohio, and have since recognized and confirmed it.

By the act of Congress of April 30, 1802, authorising the people of the eastern division of the North-Western Territory to form a constitution and state government, it was provided, that the northern boundary of the proposed state should be a line, running due east from the southern extreme of Lake Michigan, after intersecting a line running north from the mouth of the Great Miami. And all the country north of that line was, for the purpose of temporary government, attached to the territory of Indiana. The convention of Ohio, in defining the boundaries of the state, followed the words of the act of Congress; and then added the following proviso—"Provided, always, and it is hereby fully understood and declared by this convention, that if the southerly bend or extreme of Lake Michigan should extend so far south, that a line drawn due east from it should not intersect Lake Erie, or if it should intersect the said Lake Erie, east of the mouth of the Miami river, then in that case, with the assent of the Congress of the United States, the northern boundary of this state shall be established by and extend to a direct line, running from the southern extremity of Lake Michigan to the most northerly cape of the Miami Bay, after intersecting the due north line from the mouth of the Great Miami, as aforesaid, thence north-east to the territorial line, and by the said territorial line to the Pennsylvania line." The constitution, proposing this modification, was submitted to Congress, and referred on the 23d of December, 1802, in the House of Representatives, to a committee of which Mr. Randolph was chairman. This committee reported on the 2d of February following, that with respect to the

change proposed by Ohio in her northern boundary, "as the suggested alteration was not submitted in the shape of a distinct proposition, by any competent authority, for approval or disapproval, it was not necessary or expedient for Congress to act on it at all."

On the 19th of February, an act was passed, extending the laws of the United States over the State of Ohio, and the preamble to this act declares, that the people of the eastern division of the North-Western Territory, had formed a constitution and state government, *in pursuance* of the act of Congress before referred to, authorizing such state government to be formed. And on the 3d of March, 1803, another act was passed, assenting to certain propositions made by Ohio; but in neither of these acts is any notice taken of the proposed change in the boundary.

The Territory of Michigan was established by the act of Congress of January 11, 1805, and its southern boundary was declared to be a line drawn due east from the southern extreme of Lake Michigan to Lake Erie. And by another act, passed May 20, 1812, the Surveyor General was authorised to cause to be run, under the direction of the President, so much of the northern and western boundaries of Ohio, which had not already been ascertained, and as divided said State from the Territories of Indiana and Michigan, *agreeably to the boundaries as established* by the act entitled, An act to enable the people of the eastern division of the territory north-west of the river Ohio, to frame a constitution and state government, and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes," "and to cause to be made a plat or plan of such of the boundary line, as runs *from the southerly extreme of Lake Michigan to Lake Erie,*" &c.

The events of the war upon this frontier prevented the execution of the duties enjoined by this act; but on the 16th of April, 1816, another appropriation was made for carrying it into effect, and under the directions of the President, the line was run, in conformity with the various acts of Congress, from the southerly extreme of Lake Michigan to Lake Erie.

This is the history of the legislation concerning this subject, and it brings the question of right within a narrow compass. The State of Ohio, to support her claim, must contend, either, that she had the power to enlarge her own territory, or that Congress has assented to the proposition submitted for that purpose. The former ground has not been taken, and with respect to the latter, it is certain, that the United States have passed no act, giving their consent to the change asked for. In fact, the claim of Ohio, as advanced and advocated, rests solely upon the presumption, that as Congress did not act upon the subject of her proposition to change the northern boundary, when she was admitted into the Union, such admission is a virtual assent to that measure, and gives her

complete jurisdiction over the tract demanded. That I am correct in this view of the case, will be seen by the accompanying extract of a letter from the Governor of Ohio to Mr. Woodbridge.

Even were there no cotemporaneous or subsequent proceedings on the part of Congress by which their intentions could be ascertained, it is difficult to conceive, how the performance of a necessary and independent duty, that of admitting the State into the Union, can be considered as an assent to a proposition, totally distinct from this measure. For whether the boundary were north or south of the Maumee, Ohio had an equal right to join the national councils; nor was the determination of this question at all essential to her rights or sovereignty; nor in the slightest manner connected with her entrance into the confederacy. Other propositions submitted by Ohio at the same time, were considered and accepted, and an act passed by Congress to give effect to them. But the circumstances of the case admit of no presumption. The very act of admission, already quoted, proves the right of Ohio to enter the Union upon the foundation of the act which prescribed her boundaries. The committee expressly state, that it is not expedient for Congress to act upon the subject. Two years afterwards, this Territory was established, and the same fundamental line was prescribed as its southern boundary. After another interval of seven years, Congress again recognised this line and directed its survey. Four years later, and an appropriation was made to effect this object. The Executive caused this law to be carried into effect, and the line, as now existing, to be run in the year 1818 two years after the passage of this last mentioned act. I need add nothing to this series of Congressional measures, indicating in the most satisfactory manner, the determination of the general government not to assent to the change in the boundary proposed by Ohio. As a question of expediency there is certainly no reason why the neighboring States should be increased at the expense of this Territory; and should the subject be brought in this form before Congress, we may safely rely for our security upon the very obvious considerations, both political and geographical, which will present themselves.

The situation of the roads made by the general government in this Territory, calls for the adoption of some system, by which they may be repaired and kept in repair. Considerable expense has been incurred in their construction, and their preservation is highly important to the community. Diverging, as they do, from the seat of the Territorial government, and the principal mart of business upon this frontier, they extend into the interior of the country in various directions, and furnish the means of extensive communication. The population is yet thin along many portions of them, and the ordinary labor, required by law to be applied to the repair of roads, is insufficient for their preservation. Their

condition calls for legislative interposition, for unless some remedial plan can be adopted, serious inconvenience and loss to the country generally will be the consequence.

Applications have been made for the appointment of Commissioners to locate the seats of justice in the counties of Jackson, Hillsdale, St. Joseph, Cass, Kalamazoo, Branch, Saginaw and Lapeer, and commissions for that purpose have been issued. No report has however been received, except from the county of Jackson, a copy of which and of my letter to the Commissioners is herewith transmitted to you. For the reasons stated in the letter, I have not issued the proclamation authorized by law, confirming the proceedings, and establishing the site recommended by the Commissioners. It will however be done, as soon as the necessary evidence is furnished that the proprietors have conveyed, for the use of the county, the lots offered by them. I have no doubt, but that the operation of the law, providing for the location of the seats of justice in the new counties, will be found to be salutary. By fixing these locations at an early period, many perplexing questions are avoided. The counties are settled with a knowledge that the seats of justice are established, and those local interests, which under other circumstances would agitate the community, are not called into action. I shall not hesitate, in any case, where a proper application is made to me, and where a sufficient quantity of land has been purchased from the United States, to allow a judicious selection to be made, to exercise the power vested in me, by the appointment of commissioners to locate the seats of justice.

A recent event in the administration of the criminal justice of the Territory, has directed public attention to that part of our penal code, which prescribes the punishment of death. We have adopted much of the common law doctrine upon the subject of homicide, and recognize no difference between a cool, deliberate, and previously contemplated murder, and one which is the result of sudden and violent passion, unjustifiable, no doubt, but far more excusable than the former. There is a manifest difference in the degrees of guilt in these cases, and there should be a corresponding difference in the penalties. While the last act of human punishment is reserved for the former, imprisonment for life or for a term of years, with such provisions for solitary confinement and labor, as may best tend to the reformation of the criminal, and to the great object of public example, would seem to be sufficient for the latter. And many of the States of the Union have engrafted this obvious distinction upon their codes, and mitigated the punishment of the inferior offence. In fact, the opinion gains ground through the civilized world, that human life has been too often sacrificed to unjust laws, which seek the death of the offender, rather than his reformation. Governments have found it easy to put an end to the transgressions of offenders, by

putting an end to their lives. While the difficult problem, whose solution is equally required by policy and humanity, of uniting reformation, example and security, has been neglected, as unimportant or unattainable. The period is probably not far distant, when it will be universally acknowledged, that all the just objects of human laws may be fully answered, without the infliction of capital punishment. It appears advisable, that authority should be given to commute higher punishments for those which are inferior, in cases calling for executive interposition, and whose circumstances do not justify an unconditional pardon. As the law now stands, criminals must sometimes wholly escape, or sentences be carried into execution, where powerful considerations present themselves in favor of mitigating the punishment.

By the present organization of our judicial system, all causes not cognizable by justices of the peace, and all which are appealed from the decisions of those magistrates, are brought before the Supreme Court or Circuit Courts, which are thus rendered the tribunals for the adjudication of a large proportion of the litigated cases of the country. By this arrangement, a heavy duty is not only imposed upon the Territorial Judges, but in the county of Wayne in particular, there is such an accumulation of business, that great delay necessarily occurs in the administration of justice. As new counties are organized, and the business of the country increases, this evil will be still more severely felt. An adequate remedy will probably be found in the institution of inferior courts, or in the restoration of a portion of their jurisdiction to the County Courts. Causes are also removed with too much facility. It appears to me that a thorough revision is called for of the various processes, by which causes are carried from inferior to superior tribunals. Appeals, by which matters of facts are re-examined, are granted of course. In addition to these, there is no good reason, why all the common law writs and proceedings, originating in a state of things, essentially different from our own, and some of them devised or applied for the purpose of accomplishing indirectly what could not be done directly, should be employed in arresting the proceedings in a cause, and in its transfer, with various incidents and consequences, to another tribunal. A judicial system must be radically defective, which allows the removal of causes, for the mere purpose of delay. Such delays are not only subversive of the ends of justice, but they increase the expense of litigation to the parties, far beyond any advantages which either can expect to derive from them.

In the progress of your legislative labors, whatever aid can be rendered by my co-operation, that can be useful to the Territory, shall be cheerfully afforded.

LEW. CASS.

January 6, 1831

From *Journal of the Legislative Council*, p. 26

To the Legislative Council:

"Gentlemen—I have received and deposited in the office of the Secretary of the Territory, the resignation of Robert Irwin, Jr. late a member of the Legislative Council, from the district composed of the counties of Chippewa, Michilimackinac, Brown, Crawford and Iowa, dated Sept. 12, 1830.

"I regret for the sake of his constituents, and the Territory generally, that the Council will be deprived of the valuable services of Mr. Irwin. During a period of some years in which he was a member, he enjoyed, and deservedly, the attachment of his colleagues and the confidence of the public.

"There is no existing provision of our laws by which accidental vacancies in the Council can be supplied. Independent of the injury which may be experienced by the immediate constituents of a member, whose seat is vacated before the expiration of his regular term of service, by the loss of their representation in the legislature, circumstances might occur which would reduce the number of the members of the Council below the number fixed by law as a quorum; and thus great confusion would be introduced into the affairs of the Territory."

LEW. CASS.

February 9, 1831

From *Journal of the Legislative Council*, p. 79

To the Legislative Council.

I have received applications from the county of Crawford, requesting that I would submit to the Legislative Council, the views of the citizens of that county, concerning the sale of ardent spirits to the soldiers.

The practice is said to prevail to a considerable extent, and to be very injurious to the peace and good order of the community. That it is detrimental to the public interest, and ruinous to the health and morals of the soldiers, there can be no doubt.

It is the wish of the inhabitants there, that the law formerly in force, prohibiting this traffic, should be revived.—They state that a similar law exists in Missouri and Louisiana. And I am satisfied that beneficial results would follow from its re-enactment in this Territory. The discipline of the army is materially affected in the vicinity of many of our military posts, and scenes of profligacy exhibited, not less offensive to morals and religion than incompatible with the peace of society.

I recommend the subject to your consideration.

LEW. CASS.

February 14, 1831

From *Journal of the Legislative Council*, p. 87*To the Legislative Council:*

I transmit to the Legislative Council, the report of the Commissioners appointed to locate the Seat of Justice of the county of St. Joseph, together with remonstrances against the decision of the Commissioners, and representations in favor of it. The law on this subject seems to be defective. If the Executive approve the proceedings of the Commissioners, their report is final. If he disapprove, there is no provision for any subsequent examination, and consequently no means of establishing the seat of justice. And it is doubtful in reviewing the acts of the commissioners, whether the Executive ought to set them aside, where there is no allegation of improper conduct, and where the error, if there be any, is an error of judgment only.

I transmit also similar representations concerning the county seat of Cass county, together with the report of the Commissioners establishing it. And I recommend the whole subject to the consideration and decision of the Council.

I have been informed that remonstrances will be forwarded from the county of Kalamazoo, against the location of the seat of justice of that county, nothing however has yet been received by me.

These difficulties strongly point to the expediency of having the seats of justice of all the new counties located, at as early a day as possible, and before there are so many conflicting opinions and interests to reconcile. Representations against the reports of commissioners ought to be patiently heard and candidly examined, and the permanent interests of the respective counties fully consulted. But if these locations are to be delayed until all excitements are removed, we may look in vain for the termination of these contests. Where there are just reasons for setting aside the report of the commissioners, it appears to me, it would be proper to appoint others with a provision, that their decision should be final, unless charges of improper conduct can be established against them.

LEW. CASS.

February 18, 1831

From *Journal of the Legislative Council*, p. 101*To the Legislative Council:*

I return without my signature the bill to authorise the supervisors of St. Clair county to erect certain bridges. I have no objection to urge

against the principles or details of the bill, but the phraseology of the first section seems to require some alteration, before it becomes a law.

LEW. CASS.

March 3, 1831

From *Journal of the Legislative Council*, pp. 153-154

To the Legislative Council:

I return without my signature, the bill relative to proceedings in criminal cases. My objection is to the third section. It provides, that "all fines imposed on a person or persons, by Justices of the Peace, may be discharged by the offender, in working the same out, on the highway, under the direction of the overseers of the highway of the district where the trial shall be had, at the rate of seventy-five cents a day." The object intended to be attained, appears to me to be salutary. Until a penitentiary can be erected, this perhaps is the best mode in which criminals can be employed; and the heavy expense under the present system, diminished. But I apprehend, that so general a provision, introducing a new principle into our criminal code, without any details, respecting the mode of execution, would lead to great uncertainty and confusion. I think it is necessary, that the section should be better guarded, that Justices of peace, as well as the overseers of the roads, and the criminals may know their rights and duties. Is the Justice of the Peace, immediately after the trial, at the request of the party, or without such request, to send for the overseers of the highways, and deliver such party to him? Is the overseer bound to receive him, to be responsible for him, to hold him in his custody, and to feed and clothe him? Is security to be given, and if so, by whom, and to whom, and in what sum and upon what condition? Can the criminal be committed to jail, and thence released, and delivered to the overseers? And if he can, who is to issue the process, and what is to be its nature? And if he cannot, will not the law be inapplicable in all cases, where the party cannot immediately comply with the conditions to be imposed, if any may be imposed, and whenever the state of the roads is such, that no work can be done upon them? These are obvious considerations, and I submit, whether it would not be better to provide by sufficient detail, at this time, for the occurrence of these difficulties, rather than leave the law so general in its requisitions, that the practical construction, which may be given to it, will be very doubtful, and may be different in every county of the Territory.

LEW. CASS.

**ACTING GOVERNOR
STEVENS T. MASON**

(See page 115 for portrait and biographical sketch)

MESSAGES

1832

May 2, 1832

From Journal of the Legislative Council, pp. 5-8

Gentlemen of the Legislative Council:

The temporary absence of the Governor of the Territory, having devolved upon me [Stevens T. Mason] the duties of the Executive Department of this Government, I have, with the diffidence of conscious inexperience and inability, endeavored to discharge, in a satisfactory manner, such of those duties as required indispensable action. These have been few; and if their execution has not been attended with any distinguished benefit to the public interest, I may flatter myself with the hope, that no great injury has resulted from it. The virtue and intelligence of the people, have happily supplied all defects, and rendered it unnecessary for the Executive, to attempt to discharge much more than the formal routine of ordinary official business.

Under our limited form of Territorial Government, one of the greatest blessings we enjoy, is the possession of a legislative body, elected by the people, and responsible to them alone, for the faithful performance of the important trusts committed to their care; and our fellow citizens must derive confidence and satisfaction from the reflection, that without your concurrence, no measure, seriously or extensively affecting their interests, can be adopted or changed. To you, then, gentlemen, coming from the different counties of the Territory, and thoroughly acquainted with the wants and wishes of your constituents, is committed the important task, of legislating for their benefit, of enacting new laws to promote their welfare, and of applying the appropriate and adequate remedy to existing defects.

Among the subjects which appear to me particularly to merit your consideration at this time, are the present organization and condition of the judiciary. Nearly the whole judicial business of the Territory, except that which is transacted by Justices of the Peace, falls upon the Supreme Court, which is composed of three Judges only. From the rapid extension of population into the interior of the Territory, and the vast accumulation of legal business, it has become impossible for any three Judges, under the existing system, to hold the various courts required by law. The great inconvenience resulting from this circumstance, has frequently been felt in several of the counties, but perhaps never so sensibly as at the present time, proceeding from the delay in the appoint-

ment of two of the new Judges of the Court. If the Circuit Courts could each be held by one of the Judges, the evil would at least be partially remedied. By a division of the Territory into different circuits, two or three courts might be held at the same time, and the judicial business of the counties despatched with a corresponding celerity. Appeals, in that case, from the Circuit Courts to the Supreme Court, would afford greater satisfaction to the parties litigant, because a majority of the court in bank, would hear and decide on the appeals, without having prejudged the case in the courts below.

Dissatisfaction prevails in different parts of the Territory, in relation to the extent of jurisdiction now exercised by justices of the peace; and petitions will probably be presented to the Legislative Council on that subject, during its present session. The great source of complaint is, that the justices exercise jurisdiction throughout the whole county; that defendants are consequently often dragged to parts of the county remote from their residences, sometimes thirty or forty miles; that by this proceeding, the plaintiff is enabled to convert the law into an instrument for the gratification of his personal resentment and malevolence, and the defendant, subjected to a great additional inconvenience and expense. The complaint seems to be well founded, and the evil, which has produced it, to violate that sound principle handed down to us by our ancestors, which requires justice to be brought home, as it were, to every man's door. The limitation of the jurisdiction of justices of the peace, in civil cases at least, to their respective townships, would doubtless almost entirely remove the prevailing discontent on this subject.

The expenses of the Territorial Government, being defrayed by the United States, taxes are required only for township and county purposes, or for other immediate local objects. As it is desirable that a rigid system of economy should be adopted in the administration of our local financial concerns, your attention is respectfully invited to this subject, in order that, if necessary, the various acts authorising the imposition of taxes, and specifying the objects to which they may be applied, may be re-examined, simplified, and improved by alterations and new enactments.

By an examination of our statute laws respecting grand and petit juries, it will be seen that no adequate compensation is allowed jurors, for the time and labor consumed by their attendance at courts. Petit jurors are at present, drawn away from their homes for weeks together; they are compelled to neglect their families and business; and for the services rendered at courts for the benefit of others, they are allowed in return the mere pittance of twenty-five cents for each case they may determine. This law is oppressive and unequal in its operation, for by a very

slight observation it will be seen, that a greater portion of our juries are composed of farmers and mechanics, men whose occupations of all others, require their constant individual attention. It would seem then, that an adequate allowance should in justice be granted to jurors, for the services they render the public.

Laws have successively, for several years, been passed, for the encouragement and support of Common Schools. From causes by no means insurmountable, they have not been carried into effect in such a manner, as to realize the benefits which their enactment was designed to impart to the youthful generation of the present and of future times. You will, it is confidently believed, concur in the opinion, that the subject of education is the most important, which could occupy the attention or secure the effective action, of the Legislative Councils of a Republic. With an intelligent, virtuous and independent population, our free institutions cannot fail to "outlive the term heretofore assigned to republican governments." To no object, therefore, can the public funds raised by taxation or otherwise, be more judiciously or advantageously applied, than to the establishment and support of common free schools, with a view to the extension of the blessings of education, to all classes of the community.

The General Government has heretofore been liberal in its appropriations for the improvement of the Territory. It is hoped that by a continuance of the same fostering spirit, and the exertions of our delegate in Congress, additional appropriations for the further prosecution and completion of the improvements already in progress, may be made before the close of the present session of that honorable body. By the efforts of the same delegate, a bill has been reported in the House of Representatives, the ultimate object of which, is to secure indemnity to such of our citizens as suffered in their property, from the devastations perpetrated by the enemy, in violation of express stipulations, and of the principles of civilized warfare, while they were in possession of this Territory in the late war. It is to be regretted that justice has been so long withheld from the sufferers, and to be hoped, that Congress will not allow the present session to terminate, without the passage of a law for the adjustment of all such claims as may be justly due our fellow citizens.

In contemplation of the expediency of an early admission of Michigan into the Union on an equal footing with the original states, and with a view to ascertain in due season the amount of population which would justify her application to Congress for that purpose, the propriety of a provision for taking a census will no doubt suggest itself to you. By the census taken under the authority of the United States, in June, 1830, the number of inhabitants within the Peninsula, amounted to

about twenty-eight thousand—the whole population of the Territory amounting to 31,698 souls. Since that period, the tide of immigration has flowed into it, with unusual rapidity. It has been so great and is so likely to continue in the same spirit, that by the time the necessary preliminary measures can be completed for our admission into the Union, the Peninsula will probably possess a population of more than sixty thousand. It would be superfluous, if not presumptuous in me, to state to you the various considerations, which urge our speedy transition from a condition of territorial dependence to one of equal self government and sovereignty, with the confederated States of our happy Union. They have no doubt already fully presented themselves to your minds. You may, it is believed, confidently expect the cooperation of the Executive of the Territory, in any measures which your wisdom may devise for the accomplishment of that desirable object.

The bill for the establishment of the Territory of Huron, or Ouisconsin, again introduced into Congress at its present session, may probably not be passed until a succeeding session. The measure, however, will unquestionably be eventually adopted, and that before our admission into the Union.

Presentments have been made by different Grand Juries, and copies sent to the Governor complaining of the delay in the printing and promulgation of the Laws of the Territory. As most of the Acts of the Legislative Council purport to go into operation from the day of their passage, it is both unreasonable and unjust, that the people should be bound to observe them, for five or six months before their publication. Your predecessors adjourned in March, 1831, and not until September of that year, were a part of the pamphlet laws received at the Secretary's office for distribution. The remainder of the copies were received four or five weeks ago. The cause of the delay, is unknown to me. There can be no doubt that a correction should be applied to the evil.

I trust that the Governor will resume his station, in time to aid in the important duties which belong to the Legislative and Executive Branches of the Government, during your session. In the mean time, I invoke your indulgence and support in all matters, which may require the action and co-operation of the Executive, before the return of the Governor to the Territory.

STEVENS T. MASON

[Acting Governor]

June 6, 1832

From *Journal of the Legislative Council*, p. 117

Gentlemen of the Legislative Council,

I return, without my signature, the "Act to authorise the term of the Circuit Court of Wayne county to be held by one Judge."

I am opposed to signing any bill for regulating judicial proceedings, which can possibly be questioned as to its legality hereafter, except in very extreme cases. This bill may be questioned, and as the present law provides for the adjournment of the court, I am disposed to permit this court to be adjourned in the usual manner, unless you should deem it expedient to pass an act, the legality of which would admit of no question.

Respectfully,

STEVENS T. MASON

[Acting Governor]

GOVERNOR GEORGE B. PORTER



GEORGE B. PORTER

BIOGRAPHICAL SKETCH

GEORGE BRYAN PORTER, the last Territorial Governor of Michigan, was the grandson of Robert Porter, who came from Londonderry, Ireland, and settled at Norristown, Pennsylvania in 1720. His son, General Andrew Porter of Revolutionary fame, married Elizabeth Parker; they were the parents of George Bryan Porter, eleventh child, born February 9, 1791. He completed his education by being graduated from the Litchfield, Connecticut Law School. Settling at Lancaster, Pennsylvania, he practiced law and devoted spare time to agriculture and blooded stock, but at all times took a keen interest in National affairs. He was twice member of the Pennsylvania State Legislature. He married Sarah Humes of Lancaster, a lady of Scotch descent, by whom he had nine children. He was made Marshal of the Eastern District of Pennsylvania. His brother, David Rittenhouse Porter, was Governor of Pennsylvania. He numbered among his intimate friends James Buchanan, Judge Moulton, C. Rogers, and Andrew Jackson, who in August, 1831 appointed him Governor of Michigan Territory. He at once moved his family to Detroit, and bought a farm on the river between what is now 22nd and 25th Streets.

With his family he took great interest in the social life of the town and entertained largely. He built an elaborate house on the river bank, but before its completion he died of Asiatic cholera, July 18, 1834. During his short and active term of office he devoted considerable attention to agricultural development of the Territory, disputes over the border line between Michigan and Ohio, and difficulties with the Indians, culminating in the treaty, which he signed September 26, 1833, with the Chipewas, Ottowas and Potawatomis. His character conformed to his motto "*Vigilantia et Virtute.*"—*Contributed by Oliver Phelps, Grandson of Gov. Porter.*

MESSAGES

1832

June 12, 1832

From *Journal of the Legislative Council*, p. 133

To the Honorable the President and Members of the Legislative Council of Michigan:

Fellow Citizens:

It becomes my duty to inform you that I have returned to the Territory, and resumed the duties of the Executive Office. It has been to me a source of great mortification and regret, that I could not be present at the commencement of your session; and still more so, that I was not here when so much unnecessary alarm was created, in at least a part of our Territory, on account of the depredations of the Indians in a neighboring state. My absence, however, resulted from one of those casualties in life, which could neither be foreseen nor prevented; and I trust that when my own severe and protracted indisposition, and the afflictions with which it has pleased Providence to visit my family be known, they will furnish to your minds and the citizens of the Territory generally, a full justification of the delay which has taken place.

My health being now restored so far as to permit me to attend to business, permit me to assure you that it will afford me great pleasure to co-operate with you in the discharge of all the important duties which devolve upon, and in deciding upon the measures presented to the consideration of the "Governor and Legislative Council.

Although the object of this message be merely to announce the fact of my return to Detroit, I cannot conclude it without remarking, that from the best information which I can obtain, all apprehension from the Indians is at an end. The danger was greatly overrated, and there is every reason to believe that the operations of General Atkinson have, before this time, put an end to the disturbances on the Mississippi.

G. B. PORTER.

June 16, 1832

From *Journal of the Legislative Council*, pp. 155-6

To the President and Members of the Legislative Council of the Territory of Michigan,

Gentlemen—I have examined with care and attention the bill passed by your body, entitled "an act to authorize the building of a Toll bridge across the St. Joseph River," and regret that I cannot approve it in its present form. I am compelled by a sense of duty to return it without my signature.

A law granting to individuals the important privileges contained in this bill, should be well guarded, and contain some exceptions, which are considered so necessary, that they are now usually inserted in bills of this kind. Besides which the phraseology ought to be so clear and explicit as to leave nothing for construction. By this bill the exclusive right of erecting a bridge and taking toll, is secured to individuals for fifteen years, without any provision by which the grantees therein named, can be compelled to keep it in good order and repair. In this particular it is objectionable. It is also worthy of your consideration, as you will have the bill before you again, whether in all grants of this kind, there ought to be a proviso by which the Territory or county may, at any time, become entitled to the bridge, by paying to the grantees the amount which they shall have expended in the construction and repair of it from time to time, together with interest thereon in case the net amount of tolls should not have been equivalent to legal interest.

It seems to me that the language of the third section of this bill is not so plain as to prevent a difference of opinion as to what your intention may have been. Besides, the provision ought to be express, exempting from toll all persons going to, and returning from public worship, and the militia and volunteers when in the public service, or in going to, or returning from their places of training. Whether the Indians at peace and amity with the United States' Government, should not be permitted to pass free of toll, and whether pleasure carriages should not pay more toll than carriages of burden, will be for your consideration.

When you again shall have acted on this bill, I have no doubt it will be presented in such form as to receive my immediate approval.

G. B. PORTER.

June 18, 1832

From *Journal of the Legislative Council*, p. 160

To the President and Members of the Legislative Council of the Territory of Michigan.

Gentlemen—On perusing the bill presented for my approval, entitled "An Act to incorporate Kalamazoo Academy," I find authority given to the trustees, to make all necessary by-laws and regulations &c. "provided the same be consistent with the laws of the Territory." Believing that the proviso ought to be "Provided the same be not inconsistent with the Constitution and Laws of the United States, or the Laws of the Territory," I beg leave to suggest it to you, and return the bill for your consideration without my signature.

G. B. PORTER.

June 22, 1832

From *Journal of the Legislative Council*, pp. 173-4

To the President and Members of the Legislative Council of the Territory of Michigan:

Gentlemen—For the same reasons that on the 18th inst. I assigned for returning without my signature, the bill for the incorporation of the Kalamazoo Academy, I must now return the bill presented for my approval, entitled “an Act to incorporate a Literary and Theological Institution.”

I have strong objections to the granting of corporate privileges to individuals; but whenever I can be persuaded that advantage to the public would result from it, and that therefore it should be done, it must be with the restriction that their by-laws should not be inconsistent with the Constitution and Laws of the United States.

G. B. PORTER.

June 29, 1832

From *Journal of the Legislative Council*, pp. 208-210

To the President and Members of the Legislative Council of the Territory of Michigan.

Gentlemen—The bill entitled “an Act relative to the county seat of the county therein named,” has been presented for my approval. It is, in its present form, so objectionable, that I cannot sign it: and while so many bills presented for my consideration, are now before me, I cannot find time at this late hour of your session to state my objections at length, so clearly and explicitly as I could wish.

By the 1st section of the act passed 31st July 1830, entitled, “an Act to provide for establishing seats of justice,” the Governor is “authorised to appoint commissioners to locate the seats of justice in the several counties wherein the seats of justice have not been located.” In the second section it is provided “that the commissioners that may hereafter be appointed to locate the seat of justice in any county or counties shall, before they enter on the duty assigned them, severally take an oath faithfully and impartially, to discharge the trust reposed in them.” The 3d section directs the manner in which the commissioners shall proceed, and when they shall have made their report, if the Governor approve of the same, “he shall cause a proclamation to be made, establishing a seat of justice in such county or counties, agreeably to the report of the commissioners so made and accepted.”

In pursuance of the provisions of this act, commissioners were ap-

pointed to locate the seats of justice in the county of St. Joseph, as well as in Cass and Branch. Their proceedings were reported to His Excellency Governor Cass; and being by him submitted to the Legislative Council, the act of the 4th March 1821 was passed, by which (and a resolution of the same date) the Governor was authorized "to appoint three Commissioners to re-examine the proceedings which have taken place in relation to the establishment of the seats of Justice of the counties of Branch, St. Joseph and Cass, and to confirm the same, or to make new locations as the public interest may in their opinion require." The second section, after directing the time of meeting and the form of oath, provides that the said Commissioners "shall proceed to examine the said counties, and to determine where the seats of Justice thereof, respectively shall be located." By the 3d section, "the said commissioners shall report their proceedings and decisions to the Governor, &c. which decision shall be filed in the office of the secretary of the Territory, and thereupon a proclamation shall be issued by the Governor, announcing such decision, and establishing such county seats agreeably thereto." "And after the 1st day of January next, the places so selected shall become the seats of Justice of the said counties respectively," &c. The 9th section enacts "that the decisions of the commissioners heretofore appointed to locate the seats of Justice in the counties of Branch, St. Joseph and Cass, shall be, and the same are hereby set aside."

In pursuance of the provisions of this act, commissioners were appointed; their proceedings and decision were reported and filed in the office of the Secretary of the Territory; and thereupon a proclamation was issued, by the Secretary and Acting Governor, "announcing such decision and establishing such county seats agreeably thereto."

I do not stop here to enquire whether individuals interested, may not insist, that after the first day of January last, the places so settled "became the seats of justice of the said counties respectively," and that their rights should not be interfered with by subsequent legislation. But on an examination of the bill now under consideration, it will be found that there is no provision by which the proceedings last referred to, establishing the county seats, have been set aside. And while these are in full force, this bill contemplates the appointment (by whom it is not said) "of three suitable persons, whose duty it shall be, to examine the several parts of the county of St. Joseph, with a view to ascertain the most proper place for the location of the seat of justice for the said county." The subsequent provisions of the bill conflict with those of the acts already referred to of 31st July 1830, and March 4th 1831, which are unrepealed. Indeed whether the object of this bill be to set aside the proceedings had, and now fix the seat of justice,

or whether it be merely to obtain information, to enable the Council at their next session to decide, whether they will set aside the said proceedings, does not appear clear to my mind.

Should the Council think proper to provide that the proceedings had, shall be set aside, and that commissioners be again appointed agreeably to the act of July 1830, or March 1831, I shall not interpose my objection to such a bill.

G. B. PORTER.

June 29, 1832

From *Journal of the Legislative Council*, p. 210

To the President and Members of the Legislative Council of the Territory of Michigan.

Gentlemen—Although painful to me, I am compelled by a sense of duty, once more to return, without my signature, the Bill entitled “An Act to authorize the building of a Toll Bridge across St. Joseph River.”

I stated on the 16th inst. my objections to the Bill then presented. The necessary alterations to remove all these objections have not been made in this bill; besides, provisions then in the bill, which I consider important, are now omitted.

G. B. PORTER.

June 29, 1832

From *Journal of the Legislative Council*, p. 212

To the President and Members of the Legislative Council of the Territory of Michigan.

Gentlemen—I cannot consent to approve and sign the bill, entitled “an act relative to the United States road, from the village of Monroe to the city of Detroit.”—Presented as it is at this late hour of the night, when you are about adjourning, it cannot be expected that I will detain you, until I can set forth the objections, which in my mind exist, to many of its provisions. In a word, I now believe the bill interferes with the vested rights of individuals, and is unconstitutional. Should I be convinced on examination, that I am mistaken, it will afford me pleasure to say so, at the opening of your next session.

G. B. PORTER.

1833

January 2, 1833

From *Journal of the Legislative Council*, pp. 4-8

To the President and Members of the Legislative Council of Michigan.

Fellow Citizens:

I congratulate you upon your present meeting; and am pleased to see that in the full enjoyment of your accustomed health, you are enabled to resume the arduous duties which devolve upon you.

At the opening of our navigation, the past season, there was great reason to believe that the immigration to the Territory would equal that of the preceding year. It was, however, interrupted at an early period, by two alarming causes. The danger apprehended from the Indian war, was so greatly overrated that numbers were, on this account, deterred from coming among us. And the panic produced by the Cholera, in every section of the Union which it visited, was such, as to put a stop to all regular business. Still, the increase of our population during the year has been very considerable. The judicious termination of this Indian war, will have the effect of preventing, in future, any similar interruption. And, as the facilities afforded to those disposed to immigrate, are constantly increasing, and the many advantages, which our country possesses are becoming generally known, we may fairly anticipate that the progress of the Territory in population and improvement during the present year, will exceed that of any former experience.

As connected with this subject I beg leave to call your attention to the present situation of our *Public Roads*. The General Government have been at considerable expense in the construction of several of them. Whether it be owing to the manner in which they were originally made, or to the want of proper attention, from time to time, in keeping them in repair, or to both these causes, some of them are now in the very worst condition. One of the most important roads in the Territory is that leading from Detroit to Chicago. And yet of the first thirty miles from this city, about one half of the distance is nearly impassable. The condition of these roads is such as to justify, I think, an application to Congress for an appropriation to aid in putting them in repair. It is generally admitted that some of them were not properly constructed, when originally formed; and hence we may, with great propriety solicit aid from the *National Treasury*.

Among the several matters requiring legislative consideration is our *Judiciary System*. It is certainly susceptible of much improvement.

The great accumulation of business, owing to the increase of our population; and the organization of new counties render a change necessary. Under our present system, the principal part of all the litigated cases must be heard and determined by the Judges of the United States' Courts. This arrangement already imposes most arduous duties upon them; and as new counties shall be organized, these will increase to an extent impossible to be performed. Delay in the administration of justice must be the consequence. And this is so great an evil, wherever it exists, but more especially so in a new and rising country, that no exertion, to avert it, should be wanting. It is for you to determine what shall be the remedy. Whether this would be best obtained by providing that the Circuit Court should be held by one Judge; or, that the organized counties be districted, each district to contain as many counties as convenience may warrant, and in each of which the Circuit Court shall be held; or that the several counties of the Peninsula shall form two Judicial districts, to each of which a Judge, with the necessary legal acquirements should be appointed, with authority to hold Courts in each county of his District, and to have jurisdiction of all causes in which the sum in controversy should not exceed a certain amount, are suggestions I submit to your consideration. In the latter alternative he could be aided, in such matters as require local knowledge, by one or more associates in each county. I am more favorably impressed with the plan of organizing two district courts on these principles, limiting or enlarging their jurisdiction, as may be deemed most expedient, with corresponding alterations in the jurisdiction of the present Circuit Courts. The evil calls loudly for a remedy, and I entertain a confident hope, that one will be provided.

In the present circumstances of the Territory the Jurisdiction of Justices of the Peace is too extensive. When we consider that many of those now holding commissions have but recently come among us, and that these necessarily have but little knowledge of our laws; that they have jurisdiction throughout the whole county; and to a large amount; and that the difficulty and expense of procuring a review of their proceedings, by a competent tribunal, are very considerable, the propriety of this suggestion will be the more obvious.

Numerous complaints are heard on account of the manner in which the estates of Intestates, as well as Decedents generally, have been managed;—too often working injury and injustice to those whom the law is bound to protect,—the *widow and the orphan*. A revision of all the laws on this subject seems absolutely necessary.

Fully impressed with the importance of making provision, by law, for the compensation of Jurors while they are attending court, I earn-

estly recommend it to your attention. It is unreasonable to compel a citizen to leave his home, and remain at court from day to day, without allowing him a sufficient compensation to obtain even subsistence.

The act to organize the militia of this Territory has been frequently amended but is still defective. Officers complain too, that they cannot procure the law now in force. All this is productive of great embarrassment and confusion. I beg leave therefore to recommend a thorough revision of this important law: and that when a new act shall have been passed, a sufficient number of copies of it be printed in pamphlet form to furnish to each commissioned and non-commissioned officer a copy. To this law might be appended the necessary blank forms and instructions.

Too little attention is generally paid to this great arm of defence. Situated as we are, we have to rely, in case of hostile aggression, upon our militia. Their conduct during the past season is sufficient proof that this will never be a vain reliance.

Representing as you do, a country peculiarly adapted to agriculture and the production and rearing of live stock, it is suggested for your consideration, whether encouragement would not be given to our industrious and enterprising farmers, who compose so large a proportion of our population, if provision were made by law for the establishment of one or more agricultural societies in this Territory. Many of our citizens, while residing in a neighboring state, have experienced the good effects resulting from these societies. My own observation and experience induce the belief, that, under proper regulations, great advantages would be derived from them.

An act of Congress approved July 9th, 1832, contains the provision "*that no ardent spirits shall hereafter be introduced under any pretence, into the Indian Country.*" Notwithstanding the efforts within this superintendency, to give effect to the determination of the General Government; "no longer to permit a practice which has been no less disgraceful to the white, than it has been injurious and fatal to the red man," they have not been attended with such complete success, in some sections of the Territory, as the benevolent policy of the government contemplated. An amendment of the "act to prevent the selling of spirituous liquors to Indians," will be necessary to prevent the evasion of the law, and to put a stop to the indirect practices by which its spirit is violated." I beg leave to recommend this subject, of so much interest to us all, to your attention at an early period of the session.

The importance of providing for the education of the rising generation, is a truth so universally admitted, that it is needless to attempt to enforce it by argument. It cannot, however, be too frequently urged upon the attention of the representatives of the people. Whether any

further provision than that adopted at your late session, can now be made, is for you to determine.

Agreeably to the provisions of the "Act concerning a State Government," passed on the 29th June last, a report will be submitted by the Secretary of the Territory, shewing, "from the returns made to his office, the number of votes given in each township, and county, together with the *Yeas* and *Nays*." By which it will appear that the votes were, Yeas, 1817—Nays, 1190—Total, 3007: making, of the votes given, a majority of 627 in favor of a State Government.

How far this is to be taken as an expression of the opinions of a majority of the citizens of the Territory, on this important question, seems to be a matter of controversy between those entertaining opposite views. On the one side, it is alleged, that the subject was fairly submitted to the people; that a day was assigned for holding the elections, of which, it is to be presumed, all had notice; and that a decided majority is returned in favor of a State Government. On the other it is contended that a majority of the voters of the Territory have not given their assent to the measure. In support of this position reference is had to the number of votes heretofore polled. For instance, at the election of the Delegate to Congress in July 1831; although none but *qualified* electors were permitted to vote, there were 4435 votes. Whereas at this election where "every free white male inhabitant of the age of twenty-one years" had the privilege of voting, there were but 3007 votes. Besides which, as no returns have been received from four counties, viz. Michilimackinac, Chippewa, Iowa and Crawford, it is presumed that no elections were held in them.

I state this for your consideration, without expressing or meaning to express an opinion on the point. Nor do I intend in the suggestion about to be made, either to prejudice the question, or to cause delay in the adoption of any measures which you may think proper to devise for the accomplishment of the object in view.

The importance of union and harmony among our citizens in all the insipient steps necessary to be taken towards the formation and establishment of a State Government is obvious. The good which would result from it is incalculable. Could an unequivocal expression of the sentiments of a majority of our inhabitants be had, all would acquiesce; and contention would thenceforth cease. As the general elections throughout the Territory will be held in July next; and judging from past experience, it is probable the voters generally will attend them, I suggest for your consideration and determination, whether it would not be well that this important question of State Government should again be submitted to the people for their decision. It will be productive of no

evil, and is of easy execution. Nor need it involve any delay, nor interfere to interrupt or embarrass in any manner the usual and necessary preliminary arrangements.

While we fellow citizens, have been anxiously awaiting the time at which this Territory shall take her station as an independent State in the American Union, our attention has been suddenly called to the novel and extraordinary proceedings recently had in one of the original States of this confederacy; threatening to annul and resist by force the execution of laws, enacted under the authority of the Constitution. The very existence of our government thus jeopardized, the Executive of the United States has thus far well fulfilled the high obligations of his duty. He is boldly and fairly meeting the coming exigency. In the plain and unambiguous language of resolution he has avowed his determination to execute the laws and preserve the Union. That the paternal admonition and eloquent appeal, contained in his proclamation, sustained as it is by the soundest reasoning and justness of sentiment may have the effect to restore harmony and tranquility; to reconcile the citizens of South Carolina to their duty, and to re-establish the violated authority of the laws, should be the sincere prayer of every friend of his country. Moderate, but firm measures have been adopted. Should they fail, is it hazarding any thing to assert that the citizens of Michigan will be found ranged on the side of the Constitution and Laws?

In conclusion, permit me to add that both inclination and duty will induce me cordially to co-operate with you in the accomplishment of all measures which you may devise, calculated to advance the interests of the Territory, and contribute to the welfare of its citizens.

G. B. PORTER.

March 6, 1833

From Journal of the Legislative Council, p. 74

To the President and Members of the Legislative Council of the Territory of Michigan:

I return, without my signature, the bill entitled, 'An act to incorporate the Pontiac Academy.' In doing which, it may be proper to remark, that it is for the purpose of having some alterations made which are suggested by the Trustees of the present Literary Association: and which will be explained by their immediate representatives in your body: Among other suggestions, that of a provision to be inserted in the present bill, vesting in the corporation thereby created the real estate intended for the site of the Academy, and which has been conveyed "to the Trustees of the Pontiac Literary Association," and that the mere subscrip-

tion, without payment of money, shall entitle an individual to become a member of the Institution, are worthy your consideration.

G. B. PORTER.

March 9, 1833

From *Journal of the Legislative Council*, p. 81

To the President and members of the Legislative Council of the Territory of Michigan:

A Bill has been presented for approval, entitled "An act to organize the township of Allegan." The first section provides, "that all that district of country in this Territory, called Allegan, shall be a township by the name of Allegan," &c. You must excuse me for the expression of my belief that this description is not sufficiently certain and definite, and especially when the present situation of the county of Allegan is adverted to. But a part of this county is now, for judicial purposes attached to the county of Kalamazoo. If the object of this bill be to provide that all the district of country, which has been set off by prescribed limits, into a separate county by the name of Allegan, shall be a township and attached to the county of Kalamazoo for judicial purposes, it should be so expressed.

I must also take this opportunity to say that every bill intended to become a law, should be engrossed in a plain hand. The erasures and alterations made in this bill since it was transcribed make it objectionable.

G. B. PORTER.

April 4, 1833

From *Journal of the Legislative Council*, pp. 104-5

To the President and Members of the Legislative Council of the Territory of Michigan.

I am compelled to return without my signature, the bill entitled 'An Act to establish Circuit Courts in certain counties, and to define their powers and duties.'

The Judiciary system is a subject of great importance, and every attempt at improvement should be favorably received. The experience of every day convinces me that the opinion expressed in my message transmitted to you at the commencement of the present session, was correct—"That our present system is certainly susceptible of much

improvement." I have therefore minutely examined and well considered the several provisions of the bill now before me: and, solicitous as I really am, to relieve our citizens from the evils loudly complained of by them, it is with regret that I find this attempt made in such a way as to be liable to so many objections.

The bill under consideration proposes a new system. By it all issues for the trial of matters of fact are to be taken from the Judges of the United States Court, and to be tried by one of the two Judges to be appointed. As the law now stands, it is admitted that most arduous duties are imposed upon the Judges of the United States Court, and that these are continually increasing. But relieving them at once from all this labor, seems to be more than is required. They are not permitted by this bill to sit for the trial of issues even in the county of Wayne, where, being at home, they can without inconvenience hold court: and thus dispose of the vast amount of unfinished business.— And to perform the duties now devolving on three judges appointed by the President by and with the advice and consent of the Senate of the United States, it is expected that a competent individual "learned in the law" can be found who will accept for his services, an annual salary of \$600!!! I may be wrong, but it does seem to me that no gentleman of competent legal attainments can be found who would be willing to give up an honorable profession for so small a compensation. I am not an advocate for high salaries: but I hold the doctrine that "the laborer is worthy of his hire." And it is a most erroneous idea to suppose that there is any saving to the public in fixing the salary of a Judge at so low a rate that the members of respectable standing at the Bar will not accept of the situation. The salary ought to be such as to command the talents and services of the best lawyers in the Territory. Experience will show that this is true economy. It is no argument to say that there are enough of lawyers who would be willing to accept of these situations at \$600 per annum.

If then it be right in any case that unlimited chancery powers, without appeal or review, should be granted to the individual before whom the case is first heard and determined, which is questionable, certainly it should not be so here. And this feature in the present bill makes it altogether objectionable.

Nor can I think it right that the judge should be permitted to receive fees. He should be altogether independent of the parties to the suits triable before him. His salary should be the only compensation allowed him for his services. But if fees are to be paid to him they should be set forth in the bill. If this were done, when it became

a law every one might see what fees could legally be demanded. A reference to other laws which have existed is improper. The whole system should be brought into view in one law.

The provision in this bill that the Judges to be appointed shall be removable "only by the Governor on the request of at least two thirds of the members of the Legislative Council," is not only novel, but improper. It is evident to every reflecting mind that instances may occur in which the exercise of the power of removal would not only be demanded by the people, but would be productive of general good. That it should be used with prudence and judgment no one will controvert: but independent of these considerations it becomes me to say when such a provision is presented for my consideration, that the Legislative Council have no authority for making it.

Equally objectionable, in principle, is the provision restricting the appointing power in the selection of these Judges.

I have thus briefly stated the general objections to this bill. On a careful perusal, it will be found that there are some omissions in the detail of the system. Immediately succeeding section 9 should be inserted two sections similar to the 20th and 21st sections of the act of the 5th November, 1829 (for which see pamphlet laws, page 90.) And after the word 'misdemeanor,' where it first occurs in the 1st section, should be inserted a proviso to this effect, "without the consent of such person." The language of the 18th section might also be made much more clear and explicit.

Actuated by a sense of duty, I return this bill with these my objections.

G. B. PORTER.

April 6, 1833

From *Journal of the Legislative Council*, p. 109

To the President and Members of the Legislative Council of the Territory of Michigan:

I have examined with care and attention the Bill entitled "An Act to regulate highways." Although the system does not meet my approbation, and I am well convinced that a better one might be adopted, still, as the bill has been passed and from its great length must have caused much trouble and care, I am disposed to yield my opinion and suffer it to become a law, that the system may be fairly tested. There are, however, some alterations or amendments necessary before I can sign it.

The seventh section provides that a man, horse and cart shall be

credited for three days labor, for every day such man, horse and cart are employed on the road.

By the eighth section, the commutation for a day's labor is fixed at sixty two and a half cents. The common and long settled price for a day's labor on the road by a man, horse and cart is one dollar and twenty five cents (here called ten shillings.) This is all that is asked or paid. But the bill proposes to raise the price of this species of labor thirty three per cent.; for the credit intended to be given of three days is equal to one dollar and eighty seven and an half cents (15 shillings.) The principle is then, in effect, to compel the taxpayers to receive, for their money, instead of a full equivalent in labor, a part of that labor only. In other words, to pay an advance upon labor of thirty three per cent. not called for nor rendered necessary by any circumstances. This feature in the bill appears to me so plainly obnoxious, that I consider it unnecessary to advert to other minor objections; of which one is, that the provision would open a door to the commission of petty frauds by the road superintendent with impunity.

G. B. PORTER.

April 23, 1833

From *Journal of the Legislative Council*, p. 136

To the President and Members of the Legislative Council of the Territory of Michigan.

I return the bill entitled "An act relative to the Officers of Courts of Record," without my signature: the provisions of the eighth section being objectionable.

By the second section, the County Clerk is required to appoint some competent person his deputy, to be approved of by a majority of the court, "who in the absence &c. of the clerk is authorized to execute and perform all his powers and duties:"—and by the seventh section it is provided, that "upon the neglect or refusal of any Sheriff, Coroner, or other officer, to execute or perform any duty or duties required of them respectively by law, or whenever by death, sickness or inability no such officer in any such case can be procured to execute such duty. the Circuit Courts or any Judge thereof &c. may respectively appoint, and specially designate and authorize, any other competent person, legally to perform and execute such duty—and any thing done or performed by such person, so for the time being authorized and deputed, shall be considered equally valid and effectual, as if done and performed

by the proper officer of said Court or county, duly commissioned and appointed."

What necessity is there then for the provision in the eighth section, if the Council had power to make it, which I cannot admit? besides the Clerk of the County ought to be an officer independent of the Court—Giving Judges the power of removing him at pleasure, would be wrong.

G. B. PORTER.

April 23, 1833

From *Journal of the Legislative Council*, pp. 139-40

To the President and Members of the Legislative Council of the Territory of Michigan.

The bill entitled "An act to authorize the building of a toll bridge across the St. Joseph River at Niles," is so objectionable that I cannot sign it. It is certainly worthy of remark, that while the Council are endeavoring to relieve the public from the inconvenience and burthens which it is alleged they suffer, and are subjected to by reason of the toll bridges on the road between Detroit and Monroe, erected in pursuance of special laws to be seen on our statute book, they present to me a bill much more objectionable than any of the acts incorporating the companies for building these bridges. And if this were the first application for the incorporation of a company to build a bridge over the St. Joseph at Niles, the obnoxious features in this bill might be more readily excused.

In the charters of the bridges already referred to, it is expressly stipulated that if the bridge be not completed by a certain day, the liberty granted shall cease and determine; that for the land taken possession of on each side of the river, the full value shall be paid to the owner, and a method is provided by which the value may be ascertained; that the privilege of taking toll shall be limited to twenty-five years: at the expiration of which time the bridge, with the gates, turnpike, toll-house and land so obtained as aforesaid, are to revert to and vest in the territory without any compensation therefor; and it is stipulated that at the time of this reversion all these shall be in good repair, under a penalty not exceeding \$5000. The distance within which no other bridge should be erected, or ferry kept, being one mile.

If then our citizens believe that the privilege thus granted for the limited term of 25 years from the completion of the bridge, guarded with so many necessary restrictions; subjects them at this day to

inconvenience; and the Council have thought it right to lend a favorable ear to their petitions, need I use arguments to convince you that it would not be right to grant the act of incorporation to the individuals in the present bill, thereby enabling them to take toll forever and prohibiting the erection of any other toll bridge within three miles: without any provision specifying when the bridge shall be commenced or completed; nor for the rebuilding of it in case it be destroyed; nor for compensating individuals whose lands may be taken possession of on each side of the river where the bridge is to be built?

I need not here refer to several minor objections in the details of the bill.

G. B. PORTER.

April 23, 1833

From *Journal of the Legislative Council*, pp. 140-1

To the President and Legislative Council of the Territory of Michigan:

I return without my signature, the bill entitled "An act relative to the United States road, from the village of Monroe to the city of Detroit."

The 1st and 3d sections, contain the proposition that a free ferry may be established upon the streams referred to in the bill, within the limits protected by the charters of 1816-17, and 19. In whichever of two aspects this proposition is regarded, I consider it entirely objectionable.

If its purpose be to grant a permission to such as may desire it, to maintain a free ferry upon any, or all of these streams, at their own expense, I object to the provision because of its utter uselessness.

If it be intended by it, to offer to any combination of persons encouragement that they will be protected by the sanction of law in establishing a free ferry, whether by means of bridges or of boats, or otherwise howsoever, I object to it because it is deceptive, and because it plainly violates rights conferred on the proprietors of the toll bridges, by an authority competent to confer them.

The 2d section, committing a power to commissioners of highways which they had before, and which is not disputed or denied, I consider unnecessary.

The 4th section declares, that in bridges over those streams, which boats with masts have been accustomed to navigate, a draw shall be constructed, so as to suffer such boats to pass without unshipping.

In the charter authorising the building of the River Rouge bridge, this precaution has been taken, and the bridge is provided with a draw.

In those relating to the rivers, Huron and Ecorce, the pretention that the public convenience requires such an accommodation, is expressly yielded by the requirement in the charter, that the bridges shall be sufficiently elevated from the water, to admit the passage of "boats without masts."

In that of the river Raisin, no such provision was considered nor is necessary.

The requirement, therefore, if meant to apply to bridges now erected, or to be erected by any of the incorporated companies is inadmissible, because its tendency is to impair rights secured to the proprietors by a legitimate authority, of which they cannot be divested so long as they observe the terms of their compact. If it be designed to have reference to the erection of free bridges, it is useless, because as I refuse my sanction to the bill, that contingency will not arise.

I consider it my duty, also, to add to these reasons for withholding my assent, a brief view of what I understand to be the relation subsisting between the public, and the parties to have been affected by this measure.

I find, by a recurrence to the journals of the Council, that the project of establishing a free communication between Detroit and Monroe, upon the line contemplated by this bill, has proved a fruitful subject of legislation for the last six or seven years. The continual agitation of a question, which has, in all the modes in which it has yet been presented, suffered constant defeat, has had the effect, I think, to mislead the public mind, as to the character and extent of their rights in the premises.

Three of the bridges, (and I refer more particularly to these), were chartered in 1816-17. The embarrassments and difficulties which these streams created to the communication, were the topic of general complaint and dissatisfaction, until the enterprise of an association of individuals, substituted, for a tedious, inconvenient, and sometimes dangerous mode of passing these streams, and expeditious, easy, and safe one. This change consulted the public convenience, also, in another point of view. The tolls were fixed at rates below the prices demanded for ferriage. It was, then, a cheaper, as well as a better mode. Instead of inflicting an injury, it conferred a benefit; and I am advised it was then so regarded.

In respect to the River Raisin bridge, the right is expressly reserved to the public, to take the bridge upon an appraisement whenever they please. I consider this ample security against imposition, or abuse of the privilege. And I neither presume nor admit, an intention in the legislature, to appropriate or destroy private property, without indemnifying the owner, by a just equivalent.

The proprietors of the bridges over the rivers, Rouge and Ecorce, expended, in the first instance, \$7000 in their construction. This became reduced by tolls, to about \$4500, when the investment was again swelled to the sum of \$7000, by the necessity which occurred two or three years since for their reconstruction. Of this investment, the public have had the exclusive advantage, for the stockholders have never divided a cent of interest. Nor has there been, as I can learn, any interference offered by them at any time, calculated to defeat the project of establishing a free communication between Detroit and Monroe, if it could be effected without involving the sacrifice of their property and rights. They have offered, and still offer these bridges to the General Government or to the Territory, at a discount of twenty per cent, upon the balance remaining from the cost of the bridges, after deducting all receipts for tolls; or to reduce the tolls to one half their present rate, if the charters can be extended to such period, as will refund them their investment. These propositions appear to me, to be dictated by a spirit of the utmost fairness & liberality, & present in my view, a more unexceptional & just mode of arriving at the object aimed at in this bill, than the one the bill proposes.

G. B. PORTER.

1834

January 8, 1834

From *Journal of the Legislative Council*, pp. 4-6

To the President and Members of the Legislative Council of the Territory of Michigan:

Fellow Citizens: You have assembled under circumstances which should call forth our most grateful acknowledgements to the Giver of all Good. The people of this territory have been blessed in the enjoyment of health; the earth has yielded its fruits in abundance; industry in every branch of business has been crowned with success; the immigration during the past year, has equalled our most sanguine expectations; and we may look forward with exultation to the near approach of the period when we shall take rank as one of the states in the Union.

Among the first duties to which your attention is invited, is that of providing for taking a census of our inhabitants. The amount of our population should be ascertained. An application for admission into the Union may be resisted in Congress for want of definite information in this particular. You come immediately from the people—are familiar with their sentiments, and will doubtless adopt such measures as are calculated to advance their interests.

The last Legislative Council used much industry in the revision and amendment of our laws: and made provision for their re-publication. Some delay has occurred in the printing and preparation for delivery of the revised code. Officers of justice in different sections of the territory have consequently complained. Delay in the printing and promulgation of the laws is certainly an evil; and should be provided against. Whether to any one, and if so, to whom blame is attributable in the present instance is unknown to me. The contract was made by the Council; nothing in relation to it was entrusted to the Executive. Your immediate attention, however, to the subject is requisite. It is worthy of consideration whether, in the present situation of the work, the binding of the volume as printed, should not be deferred until some necessary and indeed indispensable alterations in the laws shall have been made.

By the act establishing Circuit Courts, approved April 15th, 1833, the county courts and the offices of the justices thereof, in the circuits within the Peninsula are abolished, and yet, for want of alterations in many of the old statutes, making them conform to the change in the courts, the *county courts exclusively* are authorized to exercise certain powers and duties. It is not perhaps necessary that I should here point out the

numerous instances in which the difficulty mentioned occurs. A general provision, investing the circuit courts in the several counties of the Peninsula with all the jurisdiction, powers and duties, which have heretofore, by any act now in force, been given to the county courts as formerly organized, would, it is believed, obviate the difficulty.

Some other alterations in the statutes relating to judicial proceedings, are necessary. Jurisdiction of the action of right should not be confined to the supreme court. It should be extended to the new circuit courts, in which I am gratified to find the people have the utmost confidence. Many other difficulties of minor importance can be better explained, in the free interchange of sentiment, for which I am prepared, during the session.

Connected with this subject, I beg leave to refer to my last message transmitted to the Council, for my views in regard to Justices of the Peace. Their jurisdiction is, in my opinion, too extensive.

Nor can I omit once more calling upon your body to make some adequate provision for the compensation of Jurors, while attending court. It is unjust to compel the attendance of persons as jurymen without allowing a sufficient compensation to subsist them while absent from home.

It is much to be desired that some further provision should be made for extending the benefits of education to every portion of the community. The adoption of a proper system in the present infant state of our territory, will secure incalculable benefits, not merely to the present, but to future generations. The subject is worthy of your most deliberate consideration.

The condition of the Public Roads is such as to demand our special attention. The laws with respect to their construction and repairs are defective. The advantages which would result to all from keeping them in better condition are obvious. The cost of the work would be trifling compared with the benefits to be derived. Many valuable improvements in the construction of roads, have lately been made; and a citizen of our own territory suggests one which in my opinion is worthy of a fair experiment. It is for you to determine what shall be done in the matter.

As immediately connected with this subject, permit me to call your attention to the laudable exertions now making by our citizens, in different sections of the territory, to procure the aid of the General Government, in the construction of a Rail Road through the peninsula. A liberal provision has heretofore been made for works connected with the internal improvement of this territory. Is there any subject more worthy of their fostering care than the construction of this Rail Road? A large revenue is derived from the sale of the public lands within this peninsula. Nature has prepared the ground, and the small expense which would be incurred in constructing a Rail Road, would be soon reimbursed by

the increased amount of sales, and the numerous other advantages that would result as well to the government as to individuals.

The large tract of valuable country along the western shore of lake Michigan, and the two reservations on the St. Joseph river, ceded by the Potawatamies, in the late treaty held at Chicago, will soon come into market. These lands cannot fail to attract the attention of persons inclined to migrate thither. The advance which the government will receive on their sale, will be more than sufficient to construct a Rail Road from the Detroit river to lake Michigan. May we not, therefore, reasonably ask the Federal Government to construct this Road;—forming as it does, so important a link in the chain of communication between the Atlantic and the Mississippi;—in which all the North, Northeast and Western sections of the Union are so deeply interested?

It is suggested for consideration, whether this, with many other subjects already presented to the attention of congress, would not receive additional weight by your especial recommendation, as the representatives of the people of this territory. Among these is the improvement of the navigation of the St. Joseph, Kalamazoo, and Grand Rivers; the construction of harbors at their mouths;—the removal of the bar and construction of a pier at the mouth of Clinton River; the improvement of the navigation through the flats at the mouth of St. Clair River;—at the junction of Fox River with Green Bay; and of the Fox River above and below Lake Winnebago. A small appropriation of the public money for removing the obstructions to the navigation of the Fox River, would save to the government, in the transportation of provisions and military stores, which are annually carried along it, a very considerable expenditure:—added to this, the valuable section of country, lately ceded by the Menominee Indians, is about to be surveyed and put in market; and the safe and easy navigation of this stream will add to the many other inducements which individuals will have to settle in this part of the territory.

It is believed that no more propitious period in the history of our country has occurred for presenting these subjects to the consideration of congress. By the wise and prudent administration of the general government, the national debt is nearly extinguished; the difficulties, which, a twelve month since, were likely to disturb the harmony and tranquility of the Union, have been adjusted; and the importance of preserving our present admirable form of government is admitted by all.

In conclusion, permit me to assure you that in the discharge of your duties, you may expect my hearty co-operation in all measures having a tendency to public good, and to advance the prosperity of the people.

G. B. PORTER.

February 5, 1834

From *Journal of the Legislative Council*, p. 56*To the Legislative Council of the Territory of Michigan:*

By the act of Congress entitled "An act to provide for the government of the territory northwest of the river Ohio, approved August 7, 1789, the provisions of which act were, in their full extent, applied to the territory of Michigan by an act of Congress, entitled "An act to divide the Indiana territory into two separate governments," approved January 11, 1805, it is provided "that in case of the death, removal, resignation, or necessary absence of the Governor of the territory, the Secretary thereof shall be and is authorized and *required* to execute all the powers and perform all the duties of the Governor, during the vacancy occasioned by the removal, resignation, or necessary absence of said Governor."

Although not officially notified of the fact, by his excellency Governor Porter, I have the honor to inform you that the Governor of the territory has left the seat of government, and that the duties of the executive department have devolved upon me, during his temporary and "necessary absence." In all matters which may require the immediate action of the Legislative Council, whatever aid can be rendered by the co-operation of the executive, before the return of the Governor, will be cheerfully and promptly afforded.

STEVENS T. MASON

[Acting Governor]

February 25, 1834

From *Journal of the Legislative Council*, pp. 96-97*To the President and Members of the Legislative Council of the Territory of Michigan:*

I have carefully examined the bill referred to me for my assent, entitled "An act to create and establish a common school fund"—I concur with you in the laudable object which you had in view. But under the belief that some additional provisions and restrictions should be incorporated in the bill before it is permitted to become a law, I return it with my objections:

By the "Act to provide for the assessment and collection of township and county taxes" passed April 22d, 1833, taxes are to be assessed, levied and paid in the manner therein mentioned "upon a valuation of real and personal estate including property and stock in any bank, insurance company or other incorporation." I presume it is not intended that an additional tax shall be assessed and collected. If so, to guard against

it, there should be a proviso inserted, "that there shall be no other or further tax or assessment for any purpose whatever levied upon the stocks of the corporations liable to taxation by virtue of this act."

It also appears to me that the provisions of that bill, in regard to the manner of taxation are too indefinite. No redress is given in case of errors in the assessments—this might be remedied by directing "that the assessment shall be made as near as may be, in all respects in the manner provided by the act entitled "An act to provide for the assessment and collection of township and county taxes."

If it be intended that the assessment shall be on the capital stock *paid in*, it may well be questioned whether this is correct. The rule of taxation should be according to the value of the stock in the market, or on the dividends declared.

The exception contained in the second clause in the second section is not sufficiently comprehensive—the provisions of the bill should not extend to any ecclesiastical, literary or benevolent institution—nor to any incorporation whose object is the advancement of the mechanic arts, or improvements in agriculture.

G. B. PORTER.

March 5, 1834

From *Journal of the Legislative Council*, p. 143

To the President and Members of the Legislative Council of the Territory of Michigan:

The bill entitled "An act to amend the act entitled an act relative to the privileges and duties of townships," referred to me for my assent, needs some alteration. A law of this nature should be so plainly worded as to admit of no doubtful construction.

The objection to this bill is, that it provides for a recovery of a penalty from a township officer, not exceeding fifty dollars, "in the same manner as is provided for the recovery of other forfeitures in and by the 13th section of the *"said act"*, when no act is previously recited to which the word *"said"* can have reference. If it be supposed that reference may be had to the title, (a mode which cannot be approved) it is unfortunate that there is no act in force bearing the same title, as that to which this bill purports to be amendatory, had the date of the original act been inserted in the title, it would have aided in making certain the act intended to be recited.

If the title be made to read, "An act to amend the act entitled 'An act relative to the duties and privileges of townships'"—and the section be amended by striking out of the 9th line the word *"said,"* and inserting

after the word "act" in the same line these words: "entitled 'An act relative to the duties and privileges of townships,'" the bill will be subject to no further objection.

G. B. PORTER.

March 7, 1834

From *Journal of the Legislative Council*, pp. 156-7

To the President and Members of the Legislative Council of the Territory of Michigan.

I have given to the bill entitled "an act amendatory to an act entitled "an act to provide for the assessment and collection of territorial taxes," that consideration which its importance demands. So far as it contemplates the imposition of additional checks over the officers entrusted with the collection and preservation of the territorial revenues, it meets my full approbation. It appears, however, to make provision for a large amount of duty by the attorney general, without any corresponding recompense. A part of this duty, too, savors more of *espionage* than of strict *professional* obligation.

To particularize—By the 1st section, the attorney general is required to give the auditor opinions in writing upon questions of law; the latter officer may, however, if such opinions should not harmonize with his own, disregard them entirely, and "determine" in the premises!

By section 5, the attorney general is required "to report all credits allowed by due course of law on any suits under his direction;" and by section 7, he is required to "*obtain from* the several district attorneys" certain information. It seems to me, that the specific duties herein enjoined ought to be given to the district attorneys of the respective counties, and that they ought to make the necessary "reports."

The 6th section provides that the attorney general may, with the approbation of the auditor, establish "rules and regulations for the observance of sheriffs," &c.; if this provision contemplates the establishing of rules, &c., for which the law officer of the government is deemed the appropriate organ, I see no reason for granting to the auditor or any other officer the supervisory power of "approbation."

The 8th section appears to provide for a large field of professional labor by the attorney general, which is already provided for, insufficiently, I think, by the 3d section of the "act concerning the attorney general and district attorneys."

The 3d and 4th sections are liable to a similar exception; the duties therein contemplated might be safely lodged with the auditor. Indeed

it has seemed to me, that such officer might properly be charged with most of the duties contemplated by the act.

Should the bill be amended agreeably to those suggestions, I will cheerfully give my assent to it. Considering it objectionable in its present form, I return it to you.

G. B. PORTER.

March 7, 1834

From *Journal of the Legislative Council*, pp. 157-8

To the President and Members of the Legislative Council of the Territory of Michigan.

A bill has been presented to me entitled "an act to incorporate the Detroit Co-operative Association." I cannot, from a careful perusal of it, ascertain what the intention of this association is. The bill provides for a charter of twenty years duration, with full power to *purchase, hold and convey, any estate real or personal*, without restriction, as to who shall be members—not even confining it to citizens of the United States. It is essential in every law of this kind, that the objects, articles and conditions, should be clearly expressed. It may be, and probably is, that the objects of this association are very laudable. Should they so appear, when set forth, it will afford me pleasure to aid them, by permitting an amended bill to become a law. It is proper, however, here to remark, that the power given in this bill to purchase, sell and convey real estate, must be restricted to such real estate as may be necessary for carrying on the specific business of the company.

As sundry bills providing for the incorporation of companies have already been crowded upon me at this late stage of the session, and there are many more bills before you, I cannot better express my views on the subject than by giving them in the language of a highly respectable statesman of the present day:

"The opinion is entertained by many of our citizens, and not a few of our statesmen, that individual enterprise has been greatly discouraged, and in some instances entirely depressed, by the too general and indiscriminate conferring of corporate privileges, creating monopolies in branches of industry, which ought to be left to individual exertion alone. The true line of discrimination would seem to be this, that in all great and important undertakings or enterprises, having for their object the advancement of the public convenience, accommodation or interest, to the accomplishment of which individual effort and capital would be inadequate, acts for the incorporation of companies or associations of individuals may be safely and in many instances

beneficially granted: but wherever a branch of business or enterprise of any kind can be successfully and advantageously conducted or carried on by citizens in their individual capacities, there ought to be no legislative interference; but the enterprise, whatever it may be, should be left entirely to individual exertion, and to that spirit of competition which never fails to be awakened and rendered sagacious by personal interest or the alluring prospects of gain."

G. B. PORTER.

March 7, 1834

From *Journal of the Legislative Council*, p. 164

To the President and Members of the Legislative Council of the Territory of Michigan.

I have examined the bill entitled "an act in addition to an act for the punishment of crimes." The bill is of so important a character, and the principle contained in the first section so novel, that it should not be hastily acted upon. The moment for closing the session having arrived, I beg leave to return the bill to you, that it may be laid over to the next session.

G. B. PORTER.

March 7, 1834

From *Journal of the Legislative Council*, pp. 164-165

To the President and Members of the Legislative Council of the Territory of Michigan.

The bill entitled "an act to repeal an act to provide for establishing seats of justice, and the act amendatory thereto," is herewith returned. The act of July 31, 1830, does not seem to me exceptionable. It has been considered a safe method of effecting the location of a county site in the time of my predecessor: and until the Legislative Council point out the evil resulting from it, or devise a more convenient form, I do not see any reason for striking it out of the statute book.

The provisions of the other act repealed by this bill, (erroneously stated to be dated March 4, 1831,) are mostly obsolete. It was intended for a specific purpose, and that purpose being accomplished, I cannot perceive the necessity of repealing it. A few of the sections are of general application, and I see no objections to them, if the system be correct.

Whether any, and if any, what acts may be revived by the repeal of these two, it is not in my power at this last moment of your session to ascertain.

Knowing no possible evil which can result from permitting the system to remain in its present form until you again assemble, when there will be time for investigating the whole subject, I return the bill without my signature.

G. B. PORTER.

March 7, 1834

From *Journal of the Legislative Council*, pp. 166-167

To the President and Members of the Legislative Council of the Territory of Michigan.

Entertaining, as I do, a strong desire to concur with the Legislative Council in all their proceedings, I regret that a sense of duty compels me to dissent from them in regard to the bill entitled "an act to incorporate the stockholders of the bank of Wisconsin." My objections are both general and specific. Having witnessed the evils resulting from the multiplication of banks in a new and imperfectly organized country, I have been admonished by experience of their danger. From my own knowledge of the country west of Lake Michigan I do not think the necessity exists at present for such an institution as is contemplated by this bill. The population is sparse, and much of it, in that part of the territory where the lead mines are situated, is of an unstable and unsettled character. The commercial operations of the country do not seem to demand a bank; and I have great doubts whether one could be supported. If any doubt exists on this point, it would certainly be prudent to postpone the attempt; and as the time is rapidly approaching when the country west of Lake Michigan will be provided with a Legislature deeply interested in, and well acquainted with, its local interests, no injury can result to the people of that part of the country from this course.

The currency of the Territory of Michigan is, in the present state of our banking institutions, considered by all as being equal to that of any of the states, and *entirely sound*: and in that condition I feel desirous it should remain. I do not undertake to say that it would be impaired by the passage of this bill; but no doubt can be entertained that an increase of banks in situations where they are not absolutely required, or where they cannot be supported, would lead to that result.

To the bill itself the following objections occur to me. In the first section, it is provided, that a bank shall be established in the county

of Brown or Iowa. To this, it is only necessary to say, that the Council have hitherto, in all cases, and with great propriety, refused to grant a charter, with a provision so loose. The precedent would be a bad one, and if the privilege were not abused in this case, it might be improperly exercised in others.

In the fifth section it is provided that a majority of the directors shall reside in the county where the bank is located. The remainder *may* reside without the limits of the United States; and the consequence might be that the whole of the concerns of the institution could be controlled by *three* directors. The possible result of this provision will be seen by examining the eighth section. In that section it is provided that "no loan or discount shall be made to the directors of such corporation, or upon paper on which such directors or any of them are responsible, to any amount exceeding one fourth of the capital stock paid into said bank: *Provided always*, that the loans or discounts to said directors may equal one fourth of the amount said bank is *entitled to issue*, until the said capital stock shall be fifty thousand dollars." By a comparison of the fifth and eighth sections, it will be seen, that *three* directors of the bank may, until a certain period, which period may never arrive, become borrowers of three fourths of the capital stock, instead of one fourth; and if by exchanges or deposits the amount of specie should accumulate to fifty thousand dollars, these directors might, without contravening the provisions of the charter, become the borrowers of the whole of the capital stock.

The fifteenth section provides, that a "meeting of the stockholders may be called whenever the directors or a majority of them shall judge proper; of which meeting the directors shall give five weeks previous notice in *a newspaper*, which notice shall specify the object of such meeting." In connexion with the extraordinary powers granted to the resident directors by the fifth and eighth sections, this provision is objectionable. The notice may be inserted in *any* newspaper, within or without the limits of the United States, and the compensation of the president and directors may be fixed, or the capital stock may be increased, without the knowledge or concurrence of a majority of the stockholders, for want of due notice.

G. B. PORTER.

GOVERNOR STEVENS T. MASON



STEVENS T. MASON

BIOGRAPHICAL SKETCH

STEVENS THOMPSON MASON, known as the "Boy Governor" of Michigan, was born in Loudoun County, Virginia, Oct. 27, 1811, and died in New York City Jan. 4, 1843, at the age of thirty-two years. He was but twenty-four when he became Governor of Michigan in 1835, and previously had been appointed Secretary of the Territory under Lewis Cass at the age of twenty.

Though a boy in years when he assumed his first office, he was a man in thought and action. On the appointment of one so young as Secretary much feeling was roused, since in the absence of Cass, who had been appointed a member of Jackson's cabinet, Mason would be Governor of Michigan. But firmness, courtesy, kindness and ability soon won the hearts of his most vigorous opposers. He was repeatedly Acting Governor before the death of Governor Porter which occurred July 6, 1834, and afterward was ex-officio Governor of the Territory until his election as Governor in November, 1835.

Governor Mason was descended from an old English family which figured conspicuously in the revolution which deprived Charles I of his throne. On his mother's side he was a descendent of the Scottish poet, David Macbeth Moir. His great-grandfather, George Mason, friend of George Washington and Patrick Henry, was the author of the "Bill of Rights" and the first constitution of Virginia. His grandfather, Stevens T. Mason, for whom he was named, was a United States senator from Virginia. His father, John T. Mason, had all of the literary and social characteristics of the family, but was averse to politics. While Stevens was yet a child the family removed to Lexington, Ky., where before 1815 John Mason became a successful lawyer and a leading figure in business and social life. There Stevens attended the University of Transylvania, then the most famous seat of learning in the west. But financial reverses came to the family. Stevens was obliged to leave the congenial atmosphere of his studies for a position as grocer's clerk, where doubtless he learned some lessons not taught in books. It was this failing fortune which in 1830 led the father to accept an appointment by President Jackson as Secretary of Michigan Territory, and it was to repair his fortunes that in 1831 he went to Texas, after securing the appointment of his son to succeed him as Secretary.

The first strong test of young Mason's decision and ability came in 1834 with the Black Hawk War. Black Hawk had refused to remove to the reservation provided by the Government, and sympathetic uprising was expected from the Indians in Michigan. Memories of Indian horrors threatened to spread panic. The occasion drew from Mason a

display of that belligerent spirit which at a later date gained for him from General Jackson the title of the "Young Hotspur." Michigan troops were mustered at Niles. But they did not need to leave Michigan. Black Hawk was defeated and captured by United States troops before he reached Chicago, when the resistance of his followers collapsed.

It was the so-called "Toledo War" however which gave the Boy Governor his first great popularity with the people of Michigan. In arranging the boundary line between Michigan and Ohio a dispute arose over the position of the line, involving some 470 square miles of territory. Each commonwealth sent military officers and men to enforce its jurisdiction. Feeling became tense. No one voiced this feeling in Michigan with more zeal and fervor than did Mason. He appealed strongly to the people to preserve the integrity of the Territory, declaring he would refuse no aid which the executive might properly furnish. In this stand Mason was brought into sharp collision with men in high official position, distinguished for long and eminent ability. His correspondence on the subject is marked by directness, clear statement, and cogent argument, and is reflected in his messages on the same subject to the Legislative Council of the Territory. The Council stood firmly with him. The people were with him, and gloried in the chivalrous spirit with which he defended this cause. On return of the Michigan troops from Toledo in September 1835, Mason received them with a brief but spirited address, and their hearty response gave ample evidence of the strong hold he had upon the popular affection. So insistent did he become upon the rights of Michigan, in face of the attitude of the General Government, that his old friend President Jackson was constrained to remove him, and appointed in his place John Horner of Virginia.

John S. Horner arrived in Detroit on Sept. 19, called upon Governor Mason, and took charge of the territorial government. But the people refused to acknowledge him. They became openly hostile. Fearing actual bodily maltreatment, Horner fled to a neighboring town for safety, from whence at the end of a week Mason escorted him to a steamer, which bore him away. Many were the amusing caricatures by the wits of Detroit at the expense of the unlucky "Johnie Horner, who fled to a corner, and got no Christmas pie."

Meantime the people had determined that Michigan Territory should become a state, with or without the consent of Congress, and had adopted a state constitution. Mason had been dismissed from the office of territorial governor Sept. 11, but on the first Monday of the following month he was elected Governor of the State of Michigan under the constitution of 1835, by a vote of nearly 8,000 to about 900 given to the opposing candidate.

Governor Mason served two terms, from Nov. 3, 1835 to Jan. 7, 1840.

One of his greatest services to Michigan was in the cause of free schools. He appointed John D. Pierce Superintendent of Public Instruction, and ably championed his efforts for popular education. The University of Michigan held a warm place in his affections.

In the day when the doctrines of vengeance were still carried out in penal institutions, he exerted his influence in line with the dictates of our common humanity in recommendations for Michigan's penitentiary system.

His insistence upon the rights of the feeble Territory had secured the upper peninsula as a compensation for the wrong suffered in the settlement of the dispute with Ohio, and as Governor of the state accepting the situation he had the rare foresight to ask for an appropriation for the construction of a ship canal around the rapids of St. Mary's River.

During his administration occurred the "panic of 1837." In the preceding years Michigan had shared in a phenomenal increase of land sales, national in extent, in which there was a large element of speculation. A financial crisis was anticipated in Michigan as early as 1833. Notwithstanding, banks were chartered in all of the principal Michigan settlements. The crisis came with the issue of Jackson's specie circular on July 11, 1836. In 1837 Michigan banks began rapidly to fail. In the general cataclysm the gigantic projects started by the state in canals, railroads and other internal improvements went down with a crash. These disasters were attributed in part to Mason. Great bitterness of feeling was roused against him by his enemies. Through all the storm, Mason maintained the straightforwardness and dignity that had always characterized his public career, and at the close of his second term he decided to withdraw from political life. He practiced law in New York City until his death in 1843.

His most eminent biographer, the late Lawton T. Hemans, pays this tribute to Mason: "It is not to his discredit to say that he sometimes made mistakes, but it is to his credit to say that such as he made were never the product of a vicious design. 'Tom' Mason as he was familiarly called, never arrogated to himself superior abilities. He was a young man of spirit and pleasing personality. Although fate took him to a distant state, his continuing affection and last thought was the land of his heart beside the great lakes of the north, and the great State of Michigan has done well to place his ashes where they will mingle with the soil of her metropolis, amid the familiar scenes of his fondest hopes and aspirations."

MESSAGES

1834

September 1, 1834

From *Journal of the Legislative Council* (Extra Session), pp. 4-7

To the Legislative Council of the Territory of Michigan:

You have been called together at this time fellow Citizens, in obedience to an act of Congress, passed in conformity to a request made by you, at your late session, for power to hold an extra session of the Legislative Council. In fixing upon so early a day for your meeting, I have not been insensible to the personal inconvenience which many of you may experience, from leaving your homes and business at this season of the year: But the expediency of ascertaining and preparing, for the action of Congress, at an early day of their next session, a full, complete and correct Census of the population of our Territory, precluded any delay of action on the part of the Executive; however desirable it may have been to consult the individual wishes and interests of the members of the Council; and I entertain a confident hope, that the regard and anxiety you cherish for the public welfare will, on the present occasion, supercede all private considerations.

The short interval which has elapsed since the close of your last session, affords few topics of sufficient importance to be introduced in an executive communication. I am not aware that many material changes are needed in the existing laws of the Territory. Such defects as require immediate legislation, will suggest themselves to your own minds, in the course of your deliberations. Others not essential may wisely be deferred to the period, when the colonial shall yield to the more free, salutary and enduring condition of a sovereign State government.

The leading purposes of your present session contemplates the speedy admission of Michigan into the Union. Preliminary and essential to the effectuation of this desirable object; a census of the inhabitants of the Peninsula, as well as of those west of Lake Michigan, ought, it is respectfully suggested, to be immediately ordered & taken. The details are properly confided to the wisdom of the Legislative Council. But, the time has arrived when Michigan is called upon to act for herself. She has petitioned Congress, again and again, to extend to her the same measure of liberality and justice, which has been extended to all the Territories heretofore admitted into the Union as States. None of these Territories had, at the time of their admission, a population equal to sixty thousand souls; a population on the attainment of which we are authorized, by the ordinance of 1787, to claim an incorporation with a

republican Constitution into the Union, on an equal footing with the original States. All, or most of the Territories have been admitted when they possessed a number of inhabitants equal to the then ratio of representation in the then house of representatives of the United States. Congress, under the influence of the policy which at present guides their deliberations, have failed to accede to the reiterated applications of Michigan, with a population greater by far than that of other favoured Territories, for power to form a constitution and State government. She has but one course left for the assertion of her equal rights. It is to ascertain her population, which is beyond doubt, more than sixty thousand; to proceed in that event, to the calling of a convention for the institution of a State Government, and to the election of a representative and Senators to Congress. The State of Michigan will then have a right to demand admission in the Union; and it is not to be anticipated, that the Congress of the United States will hesitate to yield as a matter of right, what they have heretofore refused to grant us as a favour.

You will find materially connected with the policy of instituting a State government, and depending essentially upon the action of the Legislative Council on this subject at its present session, the consideration and ultimate decision of the dispute with Ohio in relation to our Southern boundary. It has become manifest, that as a Territory, we have but little weight in the deliberations of Congress, on subjects connected with our vital and permanent political and territorial rights, and that they are decided upon principles of expediency, with a view to other interests than our own. Notwithstanding the efforts of our Delegate to Congress a bill passed the Senate, at the last session, giving to Ohio the contested territory, which clearly belongs to Michigan. The bill was defeated in the House of Representatives; but it is not to be doubted, that the representation from Ohio will renew her claim, and redouble their exertions to secure it. To prevent the success of these exertions, it is submitted to you, whether interest and duty do not require the adoption of the Legislative Council of some act declaratory of our determination in the event of our possessing a population of sixty thousand, to claim admission into the Union, and respectfully asking Congress to abstain from legislating on a question which ought to be left to the adjustment of the two sovereign States, in the mode prescribed and pointed out by the constitution. I need not recur at this time to the arguments by which our right to the Southern boundary as claimed by Michigan has been and may be incontestibly maintained; but simply refer you to the able, unanswered and unanswerable views of our Delegate to Congress last session, a copy of which is herewith transmitted, to be spread upon your journals there to remain, whatever may be the final decision of the

question, as an indelible record of the unrighteous and unwarrantable claim of Ohio.

An Act of Congress having attached to Michigan all that district of Country North of the State of Missouri, and west of the River Mississippi, an extension of the laws of the Territory over that district has become necessary. The inhabitants on the western side of the Mississippi are an intelligent, industrious and enterprising people, and their interests are entitled to our special attention. At this time they are peculiarly situated. Without the limits of any regularly organized local government, they depend alone upon their own virtue, intelligence and good sense as a guaranty of their mutual and individual rights and interests. Spread over an extensive country, the immediate organization for them of one or two counties with one or more townships in each county, similar to the organization of other parts of the Territory is respectfully suggested and urged. A Circuit and County Courts will also be necessary, authorizing and making a special circuit for the Counties west of the Mississippi, in as much as it would be unreasonable to require the attendance of the inhabitants of that section at the Courts east of the river. I confidently, however, rely upon your diligence and wisdom for all the measures demanded by the annexation of the new territory to the limits of Michigan.

Under instructions from the Secretary of War, the survey of a route for one or more railroads across the Peninsula, is about to be commenced by competent engineers detailed from the Army for that service. This measure is one of vast importance to the interests of Michigan. The expense of the surveys is to be defrayed either by voluntary subscriptions, or legislative appropriation from the territorial treasury. The contemplated object being connected with the general prosperity of the Territory, I earnestly suggest the propriety of an appropriation by the Council for that purpose, before its adjournment.

A late Act of Congress makes appropriations for the improvement of our territorial roads. The improvement of these roads will be rendered the more beneficial to the public, if parts of other connecting roads, were required to be repaired and kept in repair, by the respective counties through which they pass, or by appropriations from the treasury of the Territory. The condition of the Chicago road as far as its intersection at Sheldon's by the Territorial road, is referred to as an illustration of the propriety of this suggestion.

One subject I approach with great diffidence and submit it to the Council with due respect for the opinions of those who may dissent from the views which I entertain in relation to it. At each of your two preceding sessions, a bill was introduced, but unsuccessfully acted on, to abolish imprisonment for debt. I am, nevertheless, constrained by a

sense of duty, as well as by feeling, to urge upon your consideration a renewal of the efforts to mature some bill having this important object in view, and to expunge from the statute book that enactment of barbarous legislation, by which the body of a free Citizen is allowed in Civil actions, to be incarcerated within the walls of a prison, for no crime perpetrated; but for unavoidable misfortune, or at least by misfortune brought on him by indiscretion and want of forecast. I consider imprisonment for debt a flagrant violation of personal liberty, entirely at war with the spirit and genius of our institutions, and a stain upon the legal code of the Country. When the debtor has surrendered all his property for the benefit of his creditors, he has done all that they or society can consistently with the dictates of humanity or sound policy require from him. His incarceration only deprives him of the opportunity of exerting his talents, his labor, or his energies for the support of his family, as well as for the future payment of his creditors. As a preventative to the incurring of debt, imprisonment has entirely failed, while the experience of one or two States of the Union demonstrates the fact, that the abolition of imprisonment for debt, has diminished the facility for contracting debt, as well as its amount and extent. If the debtor commits an actual fraud in the contracting of debts, or fraudulently with-holds any portion of his property from his creditors, that is a misdemeanor for which a specific punishment should be prescribed by law; and the offence ought to be clearly defined by statute, before it can be properly punished.

These fellow Citizens, are some of the subjects, which appear to me to be worthy of your attention at the present session of the Legislative Council. Others heretofore submitted to your consideration, remain before you, subject to legislative action at your discretion, with precisely the same importance which intrinsically belongs to them.

Temporarily placed in the station from which I now address you, by the untimely death of his excellency the late Governor Porter; an event deeply felt by society and by his family and friends, and invoking all our sympathies and our sorrow; I shall studiously endeavor to perform its duties to the satisfaction of the people of Michigan. The task committed to me on a contingency provided for by law, is assumed with hesitation and reluctance, and with a consciousness of my inability to overcome its difficulties. Utterly indeed, should I despair of discharging the responsibilities of the executive, were I not satisfied, that in you I shall find able counsellors, and that your assistance, guidance and support will be cheerfully afforded me on every trying occasion. With such views, hopes and expectations you will realize a ready co-operation on my part in all the business of your session.

STEVENS T. MASON.

November 17, 1834

From *Journal of the Legislative Council* (Extra Session), pp. 19-23

To the Legislative Council of the Territory of Michigan:

I herewith communicate for your action the returns of the census of the Territory so far as received at the Secretary's Office as taken in conformity to the act of the Legislative Council, entitled "An Act to provide for taking a census and for other purposes," approved September 6, 1834. The returns from the Counties west of Lake Michigan, have not as yet arrived. So soon as they are received, they will be communicated to you. I have not considered it important to await their arrival, as the population of the peninsula of Michigan alone amounts to 85,856 souls.

The ordinance of 1787, requiring only 60,000 free inhabitants, to entitle Michigan to admission into the Union, as an independent State, I deem it important that you should have in your possession without delay, the necessary information, on which to base the legislation contemplated by you, at the time of your temporary adjournment.

I cannot refrain from congratulating, both you and my fellow citizens generally, upon the rapid improvement of our Territory, as is evinced by the great and unparalleled increase of her population. By the Census taken under the authority of the United States, in June 1830, the number of inhabitants within the peninsula amounted to about 28,000; the whole population of the Territory, amounting to 31,698 souls. Since that period, the tide of emigration has been so great, that in the short space of four years, the number has increased more than threefold; and while we contemplate our numerical strength, I can but add, that no country has ever been settled by more enterprising, intelligent and industrious citizens, than those who have come, and are daily coming to our shores. With such a population, Michigan will assume her station as a member of the Union with a character, which must entitle her to importance and respect.

While we rejoice at this change in our situation, it will rest with your prudence and discretion to determine, what further measures shall be adopted, to assert the rights of our citizens under the ordinance of July 13th, 1787. By the provisions of that instrument, it is secured to us as a right, that whenever any of the States to be formed in the Territory ceded by Virginia to the United States north west of the river Ohio, shall have sixty thousand free inhabitants, "such State SHALL be admitted by its delegates into the Congress of the United States, on an equal footing with the original States in all respects whatever; and SHALL be at liberty to form a permanent Constitution and State government." By the census which you now receive, Michigan presents the population

that you should use every exertion calculated to aid in carrying their wishes into effect. Should the measure succeed before Congress, as it undoubtedly must, it will leave Michigan with the boundaries as prescribed for her by the act of January 11th, 1805. Additional suggestions in support of the foregoing recommendations will be communicated to you at such time and in such a manner as their peculiar character seems to demand.

Should you determine upon calling a convention, the provisions of the necessary law for that purpose will readily occur to you. I would, however, respectfully suggest, that the apportionment of representation in the several Counties in the Territory, should not be less than seven hundred and fifty, nor more than one thousand inhabitants, to entitle them to a delegate. As a general principle, the greater the number of representatives, the more directly are the people represented; but on the other hand, a too numerous body, would encumber and prevent the dispatch of the business entrusted to them.

In reference to the period when the election of delegates should be held, and the time the convention should assemble, you can best determine, keeping in view, as I am certain you will, the necessity of giving the public mind time to act before the election, the importance of not hastening the deliberations of the convention, and the desire of having our representatives in both branches of Congress chosen before the commencement of their session in 1835.

"Constitutions are the work of time, not the invention of ingenuity," and too much deliberation and reflection cannot in its formation, be bestowed upon an instrument, on which the future prosperity of our Territory, and the happiness of her citizens may depend. When a nation is about to make a change in its political character, it behooves it to summon to its aid the experience of ages which have passed, and the wisdom and talents of the present day, and to ascertain clearly those great principles of equal rights and sound policy which effectually secure the liberties and properties of the people. Such is the situation of Michigan at present. She is about to change her political character. Her citizens should reflect upon the important step they are about to take; and with the view of bringing before them the numerous questions of importance which the measure will involve, I most earnestly recommend the passage of such a law as I have suggested to your consideration.

The recommendations of this communication are made with a strict and earnest regard for the welfare of Michigan. It is left for you, the immediate representatives of the people, to give to them that consideration, which in your opinion the interests of your constituents demand.

STEVENS T. MASON.

1835

January 12, 1835

From *Journal of the Legislative Council* (Extra Session), pp. 72-80
To the Legislative Council of the Territory of Michigan:

It has been usual for the Governor of the Territory, at the annual meeting of the Legislative Council, to recommend to their consideration, as the immediate representatives of the people of Michigan, such measures, and to call their attention to such subjects, as he deemed conducive to the public happiness and prosperity. Although the short period which has elapsed since your recent session, would seem to justify a departure from this custom, I am constrained by a sense of public duty, to lay before you such views as are by the executive, relative to some of the important topics which may be brought before you in the progress of your deliberations.

You are assembled, fellow citizens, under circumstances deeply interesting to the Territory; under circumstances which call for all your exertions and energies, and which demand from the people and the constituted authorities of Michigan, an union of action in support of their common rights. The attitude assumed by Michigan in the present crisis of her affairs, has been one of necessity; and having assumed it, she has but one course to pursue. She has declared to the world that she possesses certain rights, guaranteed to her as a sovereign state by the ordinance of 1787; that those rights are assailed, and that as she cannot be deprived of them without her consent, she is determined to maintain them. By legislative declarations, the representatives of her local legislature have asserted that determination; and have avowed that she could not, and would not submit to the encroachments endeavored to be made upon their rights of her citizens by a powerful neighboring state. With these facts before the public, and trusting to the candid and impartial judgment of the nation for an approval of the policy she has adopted, she can but carry out fully the legislation which she has already commenced.

In my special message to you of the 17th of November, I stated that by the provisions of the ordinance of 1787, it was secured to Michigan as a right, that whenever any of the states to be formed in the territory ceded by Virginia to the United States, north west of the River Ohio, "shall have sixty thousand free inhabitants, such state shall be admitted by its delegates, into the Congress of the United States on an equal footing with the original states, in all respects whatever; and

shall be at liberty to form a permanent Constitution and State Government." I also hazard an opinion, that Congress by the act of January 11, 1805, dividing the Indiana territory into two separate governments, had evidently determined to form two states in that part of the Territory ceded by Virginia, which lies north of an east and west line drawn through the southerly bend of Lake Michigan; and that the Territory of Wisconsin being attached to Michigan only for purposes of temporary government by the act of 1819, admitting the state of Illinois into the Union, the district of territory embraced within the limits of Michigan proper, as established by the act of 1805, must be admitted by its delegates into the Congress of the United States on an equal footing with the original states, whenever it shall have sixty thousand free inhabitants. To the first proposition there can be no question, the language of the ordinance being as plain and conclusive as human ingenuity could have made it. Greater deliberation and reflection have confirmed my opinion of the correctness of the latter.

The ordinance of 1817, authorizing Congress to form two states north of an east and west line drawn through the southerly extreme of Lake Michigan, they set off and established by the act of 1805, the Michigan Territory, with a temporary form of government, having in view her right, under the ordinance to change that government, when she had within her limits sixty thousand free inhabitants. Her southern boundary being unalterably fixed by the ordinance, and declared to be an east and west line drawn through the southerly bend or extreme of Lake Michigan, Congress exercised the only discretionary power left, and established her western boundary by a line to be drawn from the southerly bend through the middle of said lake to its northern extremity, and thence due north to the northern boundary of the United States. The question is, whether the Territory so established, shall be admitted into the Union as a sovereign state, whenever it shall have within its limits sixty thousand free inhabitants, or shall be compelled, unless Congress shall now otherwise direct, to embrace within her limits the district of country west of Lake Michigan.

By the act establishing the Territory of Michigan, Congress created the territorial and geographical limits and boundaries of one of the five states, to be formed in the Territory ceded by Virginia. To construe legislative acts correctly, we must refer to the intentions of those who were engaged in their formations; and their intentions can only be clearly ascertained by language used at that time. It is only by such a reference that we can arrive at a correct construction of the act of cession by Virginia and the ordinance of '87. The first resolution by Congress on the subject of the lands to be ceded by the original states to

the general government, was adopted in 1780. That resolution declares, "that the lands that may be ceded to the United States shall be formed into distinct states of not less than one hundred nor more than one hundred and fifty miles square." The act of cession by Virginia, which was received by Congress in 1784, embraced the language of their resolution, granting the territory subject to the condition, that it should be laid out and formed into states, containing a suitable extent of territory, of "not less than one hundred nor more than one hundred and fifty miles square, or as near it as circumstances would admit," and that the states so formed should be distinct republican states, and be admitted members of the federal Union, having the same rights of sovereignty, freedom and independence, as the other states.

In the same year with the cession by Virginia, Congress adopted a resolution for the government of the Territory thus ceded to the United States. This resolution is so important to a distinct understanding of the intentions of the parties interested at this time, that I here present it entire:

"Resolved, That so much of the territory ceded or to be ceded, by individual states to the United States, as is already purchased or shall be purchased of the Indian inhabitants, and offered for sale by congress, shall be divided into distinct STATES in the following manner, as nearly as such cessions will admit; that is to say by parallels of latitude, so that each STATE shall comprehend from north to south two degrees of latitude, beginning to count from the completion of forty-five degrees north of the equator; and by meridians of longitude, one of which shall pass through the lowest point of the rapids of the Ohio and the other through the western cape of the mouth of the great "Kauhaway; but the territory eastward of this last meridian, between the Ohio, Lake Erie and Pennsylvania, shall be one state, whatsoever may be its comprehension of latitude. That which may lie beyond the completion of the 45th degree, between the said meridians, shall make part of the state adjoining it on the south; and that part of the Ohio, which is between the same meridians, coinciding nearly with the parallel of 39 degrees, shall be substituted so far in lieu of that parallel as a boundary line."

"That the settlers on any territory so purchased and offered for sale, shall either, on their own petition, or on the order of Congress, receive authority from them, with appointments of time and place, for their free males of full age within the limits of their state to meet together, for the purpose of establishing a temporary government, to adopt the constitution and laws of any one of the original states; so that such laws, nevertheless, shall be subject to alteration by their ordinary legislature; and to erect, subject to like alteration, counties, townships, or

other divisions, for the election of members for their legislature.”

“That whenever any such state shall have acquired twenty thousand free inhabitants, on giving due proof thereof to Congress, they shall receive from them authority, with appointments of time and place, to call a convention of representatives to establish a permanent constitution for themselves: PROVIDED, That both the temporary and permanent governments be established on these principles as their basis:”

“1. That they shall forever remain a part of this confederacy of the United States.

“2. That they shall be subject to the articles of confederation in all those cases in which the original states shall be so subject, and to all the acts and ordinances of the United States in congress assembled, conformably thereto.

“3. That they shall in no case interfere with the primary disposal of the soil of the United States in congress assembled, nor with the ordinances and regulations which congress may find necessary for securing the title in such soil to the bona fide purchasers.

“4. That they shall be subject to pay a part of the federal debts contracted or to be contracted, to [be] apportioned on them by congress, according to the same common rule and measure by which apportionments thereof shall be made on the other states.

“5. That no tax be imposed on lands the property of the United States.

“6. That their respective governments shall be republican.

“7. That the lands of non-resident proprietors, shall, in no case, be taxed higher than those of residents, within any new state, before the admission thereof to a vote by its delegates in congress.

“That whensoever any of the said states shall have, of free inhabitants, as many as shall be in any one the least numerous of the thirteen original states, such state shall be admitted by its delegates into the Congress of the United States, on an equal footing with the original states; provided the consent of so many states in congress is first obtained, as may at the time, be competent to such admission. And in order to adopt the said articles of confederation to the state of congress when its numbers shall be thus increased, it shall be proposed to the legislatures of the states, originally parties thereto, to require the assent of two-thirds of the United States in congress assembled, in all those cases wherein, by the said articles, the assent of nine states is now required, which being agreed to by them, shall be binding on the new states. Until such admission by their delegates into congress, any of the said states, *after the establishment of their temporary government*

shall have authority to keep a member in congress, with a right of debating but not of voting."

"That measures not inconsistent with the principles of the confederation, and necessary for the preservation of the peace and good order among settlers in any of the said new states until they shall assume a temporary government as aforesaid, may from time to time, be taken by the United States in congress assembled."

"That the preceding articles shall be formed into a charter of compact; shall be duly executed by the President of the United States in congress assembled, under his hand and seal of the United States; shall be promulgated; and shall stand as fundamental constitutions between the 13 original states, and each of the several states now nearly described, unalterable from and after the sale of any part of the territory of such state, pursuant to this resolve, but by joint consent of the United States in congress assembled, and of the particular state within which such alteration is proposed to be made."

Thus it will be seen, that at the time of the passage of the above resolutions, the only division of the territory ceded to the United States, contemplated by congress, was a division into states. The people "within the limits of their State" were authorised to establish, by the consent of congress, a form of temporary government, and whensoever any of the states should have, of free inhabitants, as many as should be in any one of the least numerous of the thirteen original states, such state should be admitted by its delegates into the Congress of the United States on an equal footing with the said original states.

In 1786, congress, by a resolution, recommended to Virginia to revive her act of cession, so as to empower the United States to divide the territory northwest of the Ohio "into distinct republican states, not less than three nor more than five." Virginia acceded to the proposition in 1788, at the same time ratifying the ordinance of July 13th, 1787. The ordinance, though repealing the resolution of 1784, retained all the important features of that resolution, expressly providing that "there shall be formed in the said territory not less than three nor more than five states." Here again is manifested the intention of Congress and Virginia to confirm all territorial and geographical divisions for contemplated states. A distinction should be kept in view between these divisions for states, and the civil divisions contemplated for purposes of temporary government alone. The ordinance expressly declares, "that the said territory for the purposes of temporary government, *shall be one district*, subject, however, to be divided into two districts, as future circumstances may, in the opinion of congress make it expedient." It appears here, that congress could divide the territory only by virtue of one of two rights, by the right to divide it into

districts not exceeding two, or by the right to divide it into states not exceeding five nor less than three. If congress had exercised their power under the first right, not more than two divisions of the territory for purposes of temporary government could have been established. But acting under the latter right, they had the power to divide the territory into divisions for contemplated states not exceeding five in number. In the year 1800 congress exercised the authority given them by the ordinance, and divided the northwestern territory into two districts for the purposes of temporary government. These two divisions were to include all the district of country ceded by Virginia. But, by the fifth article of the ordinance, power is given congress to form the territory into five states; the boundaries of three of the states are expressly defined, with the condition "that the boundaries of these three states shall be subject so far to be altered, that if congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of the territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan." Congress exercised this power in 1805, by establishing the territory of Michigan as one of the states north of this east and west line. It is conclusive that they acted under their right to create states, when it is recollected that in 1809, they established the Illinois territory into a separate government, thus making three distinct temporary governments in the northwestern territory, Indiana, Illinois and Michigan, when they possessed under the ordinance, the right, only, to create *two districts*. If Michigan was established as a district, congress in making a separate temporary government for the Illinois territory exceeded the power given them by the ordinance, two districts then existing.

In 1818, when the Illinois Territory was admitted into the union, congress, considering her district of country to be too extensive, cut off from her the contemplated Wiskonsin territory, and attached it to Michigan for purposes of temporary government until Michigan should form a permanent constitution and state government as a member of the confederacy. In the same manner, at their last session, they attached to Michigan the district of country west of the Mississippi river. Michigan proper, now possessing the population requisite, under the ordinance of 1787, to entitle her to admission into the union as a state, she can, in my opinion, exercise that right, leaving to congress the discretion of forming a temporary government for the Wiskonsin territory, when, in their opinion, the interests of the people require it. The futile objection to this position, that the adoption of the federal constitution impairs the force of the provisions of the ordinance of 1787, cannot be entitled to consideration. The third section of the fourth

article of the constitution provides, that new states may be admitted into the union; and it has been alleged that this provision repeals or renders nugatory the fifth article of the ordinance, which declares, that either of the states to be formed northwest of the river Ohio, SHALL be admitted into the union, whenever it shall have within its limits sixty thousand free inhabitants. That this provision is not still binding upon the United States, is an erroneous conclusion. It is a simple and universally recognised principle of public law, that no nation is released from any of its obligations and responsibilities, by a change in its civil form of government. The United States have frequently and successfully urged this principle in their negotiations with foreign Powers, and I believe it to be a principle fully recognized by all governments. The ordinance having been adopted by the United States in congress assembled under the confederation, having been *Ratified* and *Confirmed* by Virginia, and being declared to be "*Articles of Compact* between the original states and the people and states in the said territory and, *forever to remain unalterable unless by common consent*," the compact so formed is binding upon congress and the nation, and is irrevocable except by the consent of all the contracting parties.

It seems to be acknowledged by all, that it is not only desirable, but highly important to our interests that we should be admitted as a state at the opening of the next session of congress. The doubtful result of the unequal contest we are waging with Ohio in the struggle for disputed territory, is a question deeply affecting the rights of the people of Michigan. What course can be pursued to protect those rights? Only one; the speedy assumption by Michigan of a form of state government, when she will not be summoned to protect her soil at the bar of congress, but as a sovereign state will defend it before the supreme judicial tribunal of the country.

Notwithstanding the exertions of our delegate in congress, a bill has been introduced into the Senate of the United States, giving to Ohio the district of country claimed by her. This bill will unquestionably pass that body and it is almost reduced to certainty that the united efforts of the representatives of Ohio, Indiana and Illinois will secure its passage by the house of representatives. The word of promise is held out to Michigan, by a bill authorizing her to take a census of her inhabitants in July next, and giving her power to form a state constitution. It cannot be hazardous to express a belief that this bill will not become a law at the present session of congress. The unrelenting opposition of the delegation from the states interested in the decision of the question of our southern boundary will have the effect to place in the act for our admission such boundaries for us, as Ohio may demand. Such an act Michigan cannot approve and will not

accept. The opinions of the senate have been already formed and expressed, in their action on this subject at their last session. And it must be admitted by every one interested in our welfare, that while the spirit of that branch of congress remains what it is, there can be no security for the rights of Michigan against the injustice of Ohio, when they are brought before them for legislation.

When we attempt to legislate for the protection of the rights of the people, every consideration of pecuniary interest should be held subordinate to them. The first object of all legislation should be the security of the rights and the liberties of the people. The question before you is not so much how you can make Michigan a rich or wealthy state, as how to make her a free, sovereign and independent state, possessing all the privileges and rights of the other states of the union. The simple object is to protect the rights of Michigan. That is the legitimate end of the dispute with Ohio; and when we have attained that end, we shall be in a condition to secure advantages from it by donations of the lands which are now held out to us in the bill to which I have alluded. But until then, our duty and our interests require, that we should persevere, and unappalled, in the struggle for our territorial and political rights, in which we have reluctantly embarked. The donation of lands offered us is nothing more than has been made to all the new states already admitted into the union. Congress would not be otherwise than disposed hereafter to extend to Michigan the same rule of liberality. Indeed the most important grants to new states for purposes of internal improvement have been made since their admission as states. But allowing we lose the five per cent, on public lands sold, an event not to be expected, by demanding our admission, it may be a question worthy of consideration, how far the people of Michigan would be disposed to barter their state sovereignty at so low an estimate as that proposed by congress.

The course pursued by Tennessee, at the time of the admission of that state into the union, is entitled to great weight and consideration. The territory of Tennessee was ceded by North Carolina to the United States in April, 1790. Her act of cession provided, "that the territory so ceded should be laid out into a STATE or STATES, containing a suitable extent, the inhabitants of which should enjoy all the privileges, benefits and advantages set forth in the ordinance for the government of the North Western Territory." Under this authority congress established a government for the Territory of Tennessee for temporary purposes. In 1794 the legislative council ordered a census of the inhabitants of the territory to be taken. Her population amounting to sixty thousand free inhabitants, a convention was called, and, in January, 1796, a constitution was formed for the government of the state.

In May of the same year, Tennessee, by her representatives, demanded admission into the congress of the United States, as a sovereign and independent state. General Washington then President of the United States, in his message to Congress on the subject observed that among the advantages secured to the inhabitants by the ordinance of 1817 [1787], was "the right of forming a permanent constitution and state government, and of admission as a state by its delegates into the Congress of the United States, on an equal footing with the original states, in all respects whatever, when it shall have sixty thousand free inhabitants therein; provided the constitution and government so formed should be republican, and in conformity to the principles contained in the ordinance." In pursuance of this recommendation Tennessee was admitted into the union. The rights and privileges now claimed by Michigan are precisely those confirmed by Congress to Tennessee. The latter acted then as the former does now, under the authority of the same instrument, the ordinance of 1787. With this strong precedent before me, I cannot hesitate to urge upon your consideration, not only your right so to do, but the importance of the immediate passage by you of a law authorizing the election of delegates to a convention to form a constitution for the government of the State of Michigan.

At your last session, I recommended for your consideration the propriety of abolishing imprisonment for debt; and at that time stated, that I considered the imprisonment of a free citizen in any civil action, without crime, and perhaps for unavoidable misfortune, to be a flagrant violation of personal liberty, and at war with the spirit and genius of our republican institutions. My views on the subject remain unaltered. I do not hesitate to avow them, confident that I commit them to minds neither poisoned by the streams of ancient sophistry, nor prejudiced by the doctrine that slavery and the bitterness of oppression are elements essential to the existence of the fairer contrast of liberty.

The system of imprisonment for debt, as transferred to the United States from England, originated at an early period, for the benefit of the nobility of the latter country, to aid them in the collection of their rents. We should, therefore, look with a jealous eye to its existence [sic] and continuance in a republic where an equality of rights is fully recognised, and privileged orders expressly prohibited.

To this day the nobility of England are exempt from the effects of this system. If they can exist without it, may not the people of this country live under a similar exemption. The federal constitution expressly denounces all privileged classes of citizens. Let then the people be equally free from that unmerited degradation, which is not permitted to reach the titled orders of England.

In this Territory, our system for the collection of debts is particularly exceptionable.—The plaintiff can require the arrest of the debtor by the simple endorsement on the writ to the Sheriff, that the action is brought to recover the amount due on “a bond, sealed bill, bill of exchange, or promissory note.” It matters not how unjust the demand may be, or by what system of legalized fraud it may have been obtained, there is left to the discretion of an unrelenting creditor the arbitrary power of controlling the liberty of a fellow citizen. Is this just? Is it in accordance with the prevalence of equal rights, which the people of this country are supposed to enjoy? You give the plaintiff free access to your courts without any species of restraint. Is it not both right and just to exempt the debtor from all exposure to imprisonment, at least until a judgment is obtained against him? I would extend the process of your courts all reasonable lengths against property. The property of a debtor is the legitimate object of pursuit. Create your attachment law if you please, and let the writ of attachment be the original process, binding the property until bail is given; but neither before nor after judgment, suffer the body to be taken, except in palpable cases of fraud. Let fraud be clearly defined by law; place it upon your criminal code: and give the accused an impartial trial by a jury of his peers. Permit me then to urge you to blot from your statute book this remnant of barbarity, “this enslaving instrument of wealth associated with a love of power.” Abolish imprisonment for debt, and introduce a system of enlightened and liberal legislation, by which the rights and liberties of all classes of society will be protected, the rich and poor, the high and low; a system by which liberty will rest equally secure in the humble cottage and the princely edifice.

I would suggest for your consideration the propriety of memorializing Congress for an appropriation for the erection of a Marine Hospital for the lakes. The painful experience of the past year seems to urge the adoption of such a measure; while the commerce of the lakes is of such rapid increase as to insure the attention of Congress to the subject.

I would with diffidence, but with a conviction of the importance of the subject, call your attention to the impolicy of granting acts of private incorporation. By a reference to our statute book it will be seen, that this system has been already carried to such an extent, that if persevered in, it cannot fail to fill our territory with an innumerable multitude of irresponsible companies. It must be admitted that individual enterprise is greatly embarrassed and discouraged, by a too general and discriminate creation of corporate privileges. Individual enterprise and capital should be left freely to operate, without having to contend against the consolidated wealth and power

of oppressive monied monopolies. I respectfully suggest the importance of confining your legislation on this subject to such cases of enterprise, originating for the public good, as individual effort and capital would be adequate to accomplish.

I have thus, fellow citizens, submitted to you the views I entertain relative to some of the measures which may be brought before you. It is left for you representing the wishes and interests of the people, to give to them that weight in your deliberations to which their merit may entitle them. That I may justly stand charged with error in judgment, I am free to admit. But I can conscientiously declare that it has been the great object of my short official career to discharge the duties of my station with all the ability in my power, and with a fidelity to the interests of Michigan. I trust soon to resign my charge into the hands more able to do it justice than mine. In the mean time, with the aid of that indulgence and support which you have always extended to me, you will find me prompt to co-operate with you in the business of your session.

STEVENS T. MASON.

February 2, 1835

From *Journal of the Legislative Council*, p. 102

To the Legislative Council of the Territory of Michigan:

In compliance with a resolution of the Legislative Council, I have the honor to state that by the records in the executive office it appears, that no negotiation has been opened by the executive of Michigan with the Governor of Ohio for the adjustment of the northern boundary of that state.

STEVENS T. MASON.

February 4, 1835

From *Journal of the Legislative Council*, pp. 104-5

To the Legislative Council of the Territory of Michigan:

I return without my signature an act, entitled "an act to repeal certain acts to provide for the locations of seats of justice."

I find by reference to the records of the executive office that the seats of justice of different counties in the territory have been located by commissioners under the act of 1830, and that the compensation for their services has been paid from the territorial treasury. The several amounts thus paid have not been refunded by the proprietors of the lands

on which the locations have been made. I would respectfully suggest to your consideration the propriety of authorizing the executive, in the act which is now returned to you, to confirm those locations. The confirmation cannot take place under the act of 1830, until the proprietors refund the amount already paid the commissioners from the territorial treasury.

STEVENS T. MASON.

February 11, 1835

From *Journal of the Legislative Council*, pp. 118-120

To the Legislative Council of the Territory of Michigan:

I return without my signature, the bill entitled "an act to incorporate the River Raisin Steam Boat Company," and also a bill "to incorporate the St. Joseph and Chicago Steam Boat Company."

I regard the power vested in the Legislature of giving to individuals corporate privileges, as the most delicate they can be called upon to exercise: It is a power which should never be used, but in cases where it is required by the public good. Considered as given for the benefit of the people at large, it should clearly be exercised only when their wants and interests demand it. Such were the views and opinions of the original framers of our government. Such was the pure republican simplicity upon which our civil institutions were originally founded.

The creation of innumerable incorporated companies in the midst of society is a departure from the principles of republican government. Government is intended for the benefit of the many not the few, and where the people are the original of government, legislation should be adopted with a regard to their welfare. Acts of incorporation are aristocratic in their tendencies. They give exclusive privileges to a few, bestow partial benefits upon a favoured class, and detrimental to the general interests of the public. Individual enterprise is embarrassed and discouraged by the power given them, and the efforts of unassisted industry are prostrated by the successful competition of consolidated wealth. The interests of every individual member of society, however humble, are entitled to the protection of his government, and one class should not be favoured to the injury of another. The Legislature should not interfere unless a branch of business or enterprise, useful and important to the public, cannot be successfully carried on and conducted by citizens in their individual capacities.

Do the interests of the public demand my approval of the bills before me? I humbly conceive they do not. What is the object of the bills as avowed in their titles? It is to give a few individuals exclusive privileges as incorporate companies, beyond those which are possessed by

their fellow citizens. They are authorized to invest two hundred thousand dollars of capital in constructing certain boats, under privileges arising under their charters, which will enable them by a united power to contend in trade, against individual efforts of enterprise, with exclusive and peculiar advantages. The benefits to the public arising from the association are not called in question. The public have no interest involved in the object of these bills. It is not alleged or pretended that the enterprise of the stockholders cannot be effected unless corporate privileges and powers are given them. Let me ask if their association in trade as a company, would not enable them to accomplish everything they have in view, beneficial to the public? Most assuredly it would. If not, then are the Legislative Council called upon *to incorporate with exclusive privileges for thirty years*, as in the present case, every partnership or association of individuals in business, which may exist within this territory; giving them as you now do the power to hold the real estate of the country and exempting from execution when an honest creditor may demand his due, two hundred thousand dollars of capital stock until "*a soulless body*" may settle its accounts? Such are the provisions of the bills which I now return. Can the welfare of your constituents demand their enactment into a law? On the contrary, if they become laws, are we not nourishing upon the vitals of the community, irresponsible companies, calculated to monopolize the business of the country and to prostrate the exertions of individual industry and enterprise, by the united, favoured, and privileged power of consolidated Wealth.

Within their two last sessions, the Legislative Council have granted thirty five acts of private incorporations. In most of them the public have no interest. Indeed so readily and lavishly have these exclusive privileges been bestowed, that I find twenty-two have not been accepted, although granted upon the terms of the applicants. I mention this circumstance to show, that legislation on this subject has not been guided by the wants of the people and that a system has been introduced, which, if not checked, must soon entail upon the territory the curse of a class of monied monopolies, which will ultimately impoverish and then control the wants of the great body of the people.

As a general principle questions of expediency should be determined by the legislative department of the government. But the present is an occasion which justifies a departure from that principle. The magnitude of the subject and the solemnity of an oath warn me that I have a duty to discharge to the public. I discharge that duty and in so doing have only to regret, that I am compelled to differ in opinion with the representatives of the people.

STEVENS T. MASON.

March 28, 1835

From *Journal of the Legislative Council*, pp. 167-168

To the Legislative Council of the Territory of Michigan:

I return without my signature the bill entitled "an act to Incorporate the Detroit Steam Mill Company," the bill to "Incorporate the St. Joseph and Chicago Navigation Company," and the bill "to Incorporate the St. Clair Steam Boat Company."

My objections to acts of private Incorporations were stated to the Legislative Council in my message returning to them the bills "to Incorporate the River Raisin Steam Boat Company," and the bill to Incorporate the St. Joseph and Chicago Steam Boat Company.

The views I then submitted are before you, and render it unnecessary here again to repeat them. In the bills I now return, I recognize the creation of Incorporated Companies with exclusive privileges, for the benefit of the few, where individual enterprise and capital can effect the objects which the Companies have in contemplation.

I cannot admit the necessity of extending corporate privileges to every association for the ordinary purposes of trade. And while I reluctantly dissent from the expressed views of the Legislative Council, I feel sensible they will appreciate the motives which compel me to do it.

STEVENS T. MASON.

August 17, 1835

From *Journal of the Legislative Council* (Special Session), pp. 5-13

To the Legislative Council of the Territory of Michigan:

Important considerations, fellow citizens, arising from the controversy in which we are unhappily engaged, relative to our southern boundary, demanding your deliberation, have induced me to call you together at this time; and although aware that another session of the Legislative Council was not anticipated by the public, at a period when we are so soon to change our form of government, I trust, that when all the circumstances requiring it are examined and understood, a full justification will be found for the measure.

Communications of a recent date, having advised me to accept a compromise offered by the state of Ohio, the terms of which, as I conceive, would wrest from us the rights which we are endeavoring to maintain, I have been impelled by a sense of duty to ask your views, and to consult the wishes of your constituents. Sensible that I possessed neither the inclination nor the power to adjust the controversy on the conditions

proposed, and feeling unwilling to assume the high and fearful responsibility of bringing upon our country consequences of the gravest character, by my single determination, I have appealed to the wisdom of the immediate representatives of the people for their counsel and advice. I have done this the more readily, when I recollect the firmness with which they have heretofore asserted and guarded the integrity of our territorial limits.

Without going back beyond the period of your last session, I will briefly state the measures which have been adopted by the territorial authorities to maintain our jurisdiction and enforce obedience to the laws.

I also communicate to you copies of the proposed compromise, which are recommended to your consideration. All other information connected with the subject you have before you, and you are familiar with it.

On the 23d of February, the Legislature of Ohio adopted resolutions asserting the right of their state to the district of country in dispute; at the same time passing an act by which the judicial and other authorities were instructed to take immediate measures for the extension of the jurisdiction and laws of that state over the territory. Instructions were also given by the Executive for the remarking of what is commonly called Harris's line, which was declared to be the northern boundary of the state of Ohio.

So soon as I was satisfied that this extraordinary and unparalled legislation would be adopted by the assembly of Ohio, I reported the facts to the President of the United States, through the proper department at Washington, asking his counsel, and urging his interposition. I informed him, that the people of Michigan viewed the course of Ohio as an attempt, on the part of one of the states of the Union, to extend her jurisdiction over an integral portion of a territory of the United States, while the act of Congress giving that territory its political existence, and the laws for its government, remain unrepealed and in full force; and that although they looked to the general government for protection, they yet could not, if left unaided, submit to so gross a violation of rights which were secured to them by the ordinance of 1787, and the act of Congress of 1805; that their southern boundary was guaranteed by the solemn legislation and plighted faith of the nation, and it could not be altered without their consent; that the compact with Virginia was unalterable, and that if Ohio persevered in an attempt to seize by force a portion of their soil, a collision would inevitably take place between the authorities of the state and territory. In reply to my several communications at that time, the Secretary of State expressed, as the earnest hope of the President, that both parties, doing justice to his motives, would exercise such a spirit of mutual forbearance and prudence as would render a collision

impossible, and at the same time urging an appeal to be made to the proper tribunals of the country for the adjustment of a controversy which could admit of no other decision. Like sentiments were expressed to the Governor of Ohio. In answer, I informed the Secretary of State, that appreciating the feelings and sentiments of the President, the authorities of Michigan were disposed to exercise every degree of prudence compatible with their just rights and honor, but that they were determined to maintain the supremacy of their laws; that as Michigan was acting in defence of her rights, an appeal for forbearance could only be made with justice to the state which had constituted her strength and might, the only arbiter of her imaginary wrongs, in violation of law, and of the spirit and genius of the country.

During this period the Governor of Ohio had taken measures to carry into effect the law of his state. He had instructed the civil and military authorities of the counties bordering on the disputed territory to be "vigilant and prompt" in executing the resolution of the state. The Major General was ordered to organize the militia on the disputed territory; and in a subsequent order, he was directed "to meet the Commander-in-Chief and Staff at Perrysburg on the 1st of April, accompanied by the staff of his division: the Brigadier General of the second Brigade and his staff, and the Colonels and commandants of regiments in his brigade." The constitution and laws of the country not recognizing the use of military force except in extraordinary cases, it was prudently suggested in the order to the Major General, that it would be desirable that those officers should attend in the garb and character of citizens, rather than their military character; but at the same time *prepared* to assert the rights of the State, and aid and protect the commissioners in the discharge of their duty, if any aid should be required. I mention this order and quote its language, for the purpose of showing, that from the moment of the vaunting boast of "a million of freemen," the use of military force was contemplated by her, although the authorities of the state have proclaimed to the nation her intended measures to have been exclusively pacific.

Having received information through the Secretary of State about the time of the arrival of the Governor of Ohio at Perrysburgh, that the President, in his deep anxiety for the adjustment of the controversy without a collision, had appointed commissioners of high character as mediators between the parties, I addressed a note to His Excellency the Governor of Ohio, giving him the information, and submitting to his consideration the propriety of delaying his measures until after their arrival. My communication I conceived to be couched in mild and respectful language; but although not intended as such, it was viewed as "a tissue of threats and menaces." Nothing could have induced me to have excited

feelings which were already embittered; and that my motives should have been misconstrued, was to me a source of regret. I remarked that it was far from my intention to dictate, but that I made the suggestion for a suspension of operations from motives and feelings which I trusted would be understood and appreciated; and that I earnestly hoped that on the arrival of the commissioners appointed by the President, an arrangement might be made, that would relieve the nation from the contemplation of a controversy, which, if persevered in, would lead to consequences ever to be regretted. In making this advance, I was actuated only by a desire to prevent a collision between the two authorities, and I had flattered myself that I had appealed to one, whose age, wisdom, experience and patriotism, would insure a successful result. Had the conciliatory feelings manifested by Michigan been met by a spirit of forbearance, much of the bitterness which is now mingled with the controversy, might have been avoided. But I will not pursue the subject. It would ill-become me to speak of the manner in which the propositions of Michigan have been met by the Executive of Ohio. Self-respect, and the official courtesy due from one State to another, forbid the imitation of an irritating example, however elevated may be the source from which it has proceeded.

On the arrival of Mr. Rush and Mr. Howard, the government commissioners, and after an unsuccessful interview held by them with the Governor of Ohio, at which they endeavored to induce him to delay the execution of the law of his state until after the next session of Congress, I was called upon by those gentlemen to suspend the operation of the territorial law of February 12, 1835, entitled "An act to prevent the exercise of a foreign jurisdiction within the limits of the territory of Michigan." In their note of the 10th April, they submit for consideration, whether there can not be found, within the scope of the power of the executive, a mode of dispensing with the rigorous enforcement of a criminal law, and urge that as the act of February 12th was submitted to the revisal of Congress, it was the wish of the federal government that under no state of excitement should resort be had to force under this law, until an opportunity should be afforded for its repeal by Congress, if that body should deem such a measure expedient.

At my first interview with the commissioners, I had informed them, that if the authorities of Ohio would withdraw for the present all claim to jurisdiction, I believed that no obstacle to the re-marking of Harris's line would be interposed by the citizens of Michigan. This compromise having been rejected by Governor Lucas, I was not a little surprised that greater concessions were demanded from Michigan. In my answer to the commissioners, I informed them, that as the Executive of the territory, I could have no authority to interfere with the regular operations of the

laws; that the courts of justice must be permitted to pursue their course unchecked; that the only power belonging to the Executive, to prevent the rigorous enforcement of a criminal law, was the pardoning power, and that power could only be applied to individual cases, after the authority of the courts had been expended; and, further, that as the Attorney General of the United States had pronounced the act of February 12th a valid law, obligatory upon all persons residing within the limits of the territory, its operation could be suspended only by the power creating it. Indeed, the fact that Congress possesses a supervision over the acts of the Legislative Council is conceived to be no argument in favor of dispensing with the operation of a territorial law. The Legislative Council are authorized to pass all laws "for the good government of the territory," not conflicting with the articles of the ordinance of 1787, or the acts of Congress from which their powers are derived. The law of February 12th does not contravene the provisions of any act of Congress, and its operation should not be suspended, because, if the principle is once admitted, the suspension of every criminal law of the territory bearing upon the measures of Ohio may be demanded until the decision of Congress is known. Had these alleged instructions been obeyed, it would have been a virtual surrender of the disputed territory into the hands of the authorities of Ohio. My views and determination on this subject were communicated to the President through the Secretary of State; and, in answer, I was informed that the President considered it proper, that the civil jurisdiction of Michigan should be sustained, and the acts of Congress establishing the territory fully executed until they were modified or repealed. Such were the instructions of the President, as given on the 20th of April last.

In reply to other communications received from the commissioners, urging me to forbid the interruption of the re-marking of Harris's line, I again informed them that I could not assume powers which belonged to another department of the government; that the Governor of Ohio was informed of the terms upon which he could re-mark the line; that he had endeavored to usurp jurisdiction over the territory, and that as the line was to be run in furtherance of that jurisdiction, the proper authorities would resist the measures by every lawful means. The attempt at remarking the line was made; the result you are aware of. Ohio failed in the measure; the laws of the territory were enforced, and her jurisdiction completely asserted.

In all arrests made by Michigan, the individuals have been admitted to bail, with the exception of one, who, by the instructions of the Executive of Ohio, remained in the village of Tecumseh, and who had been and is now going at large through the country. The object of this *constructive* imprisonment is probably answered, now, that the Legislature of

Ohio has adjourned. Like all other instances complained of, the *imprisonment* of this individual exhibits fully the "rigorous" measures adopted by the authorities of Michigan. In justice to those entrusted with the execution of the laws, and to those citizens by whom they have been assisted, it is proper to state, that no harsh measures have characterized their proceedings. On the contrary, they have mingled with a firm and fearless determination to assert the supremacy of the laws, a forbearance and prudence creditable in the highest degree.

Although the inhabitants of the county of Lenawee, and particularly those of the county of Monroe, have been harrassed for months by the repeated outrages of the people of Toledo and its vicinity, claiming to be citizens of Ohio, in no instance have they exhibited acts of violence or unnecessary rashness. At a time when the Governor of Ohio had embodied a military force of five or six hundred men, for the avowed purpose of murdering our citizens while acting under the constitution and laws of the country, the authorities of Michigan forebore to follow the example. In no instance have they used the militia in the execution of their laws. It has been complained by Ohio, that fire arms were upon one occasion employed by a number of the sheriff's posse. This charge has the semblance of a pretext for its foundation. At the time of the arrest of individuals engaged in re-marking Harris's line, a few shots were fired over the heads of those who were attempting to escape; but as there existed no intention to shed the blood of our fellow citizens of Ohio, it must prove a source of regret that fright and exaggeration have tortured this affair into a matter of serious character.

On the failure of the attempt to run the line, the Governor of Ohio temporarily abandoned his original purpose, and appealing to the wisdom of the Legislature, by proclamation, convened that body.

The people of Michigan now indulged a hope that they might be relieved from this unhappy controversy. That the Legislature of Ohio, finding difficulties in the way of the execution of their law not previously anticipated, would be induced to repeal it, or at least to suspend its operations until the proper tribunal could decide the question, was earnestly desired and expected. These anticipations have proved delusive. Ohio seems still determined to urge her claims to a portion of our territory. At the recent session of her Legislature, she has enacted two laws, which justify the belief that no arrangement, save that of surrender on the part of Michigan, will satisfy her cupidity. The first law authorizes the acceptance of what is termed an arrangement entered into between the President of the United States through his commissioners, and his Excellency the Governor of Ohio, having for its object the temporary adjustment of the difficulties appertaining to the possession of the disputed territory. The second, in the event that this arrangement is

not effected, appropriates three hundred thousand dollars, to be used at the discretion of the Executive in carrying the act of Ohio of February 23rd into effect.

This compromise, as submitted through the Secretary of State, contemplates the following arrangement:

"1. That the pending prosecutions under the act of February 12, 1835, shall be discharged and discontinued."

"2. That no new prosecutions shall be commenced."

"3. That Harris's line shall be run and re-marked by the authorities of Ohio, without interruption from those of Michigan."

"4. That no forcible opposition be made by the authorities of Ohio or Michigan to the exercise of jurisdiction by the other upon the disputed territory within the time specified; the citizens residing upon the territory in question resorting to one jurisdiction or the other, as they may prefer."

Such is the compromise recommended to our acceptance. The executive possessed no power to enter into such an arrangement. Where is the authority vested in him to discharge pending prosecutions; to say that new prosecutions shall not be instituted to permit a certain act of jurisdiction on the part of Ohio, contrary to the provisions of an express law; and to will that the laws of the territory shall not be enforced, if certain individuals object to it? My course was plain. I possessed neither the inclination nor the power to accept this compromise. Legislation alone can effect it; and I now place before you the grave question, how far you will authorize or justify such a surrender of the rights of your constituents?

I am truly at a loss, fellow citizens, to determine in what light this recommendation is to be viewed. Is it intended as simply an act of courtesy to the Legislature of Ohio, leaving us the victims of our own folly, if accepted; or in the language of the law of Ohio, is the observance on the part of Michigan to be compelled by the United States? This is asked as a condition of the compromise. Language like this must be new to the people of this country. How is the observance of Michigan to be compelled? Is it at the point of the bayonet? I can see no other course. But does Ohio forget, that like herself we are a community of freemen; that we are citizens of a common country, whose civil institutions readily right the injured? And does her legislature recollect that this demand is made of a patriotic Chief Magistrate, whose arms are only to be directed against the enemies of his country, or the open violators of her domestic tranquility in their attempt to trample under foot that constitution which he has sworn to protect and defend?

You have before you the terms of the proposed arrangement. In considering it, two questions will arise. First, can the government of the

United States authorize a concurrent jurisdiction with Ohio over the disputed territory? And secondly, would it be policy for Michigan to accept such a compromise as an object of temporary expediency?

I am clearly of opinion that the general government cannot authorize the acceptance of the proposed arrangement, much less compel its observance as is demanded. The policy of the administration is plain and easily determined. To ensure success, we have only to be true to ourselves. As early as the 21st of March, the government avowed the ultimate measures to be adopted by them in the event of a serious collision occurring between the authorities of the state and those of the territory. The Attorney General, the legal adviser of the President, when required to give his opinion upon the merits of the controversy, declares, that until the assent of Congress is given to the claim of Ohio, the tract of country in dispute must be considered as forming legally a part of the territory of Michigan." If such is the opinion of the government, with what semblance of justice can Michigan be asked to yield a portion of her jurisdiction to Ohio?

In reference to the power and duty of the President to interfere between the parties, the officer above named says, "It is only in obedience to the constitutional injunction, that the laws be faithfully executed, that the President can be authorized or required to interpose in any of the matters growing out of this controversy." The duty of the President is made imperative, whenever called upon to maintain the supremacy of an act of Congress. Are any of these acts of Congress now in force violated by the proceedings of the state of Ohio? We are informed by the attorney general that the acts which provide for the government and organization of the territory may be thus effected. This officer further informs the President as his opinion, that "the obstruction by unarmed individuals, either singly or in numbers, of the process and orders issued and made by the officers of Michigan, would probably be reached by the 22d section of the act of the 30th April, 1790, for the punishment of certain crimes against the United States, an attempt by a military force actually embodied, to suppress the jurisdiction of the territorial officers, acting as they do under the laws of the United States, in the disputed territory, and to maintain therein the exclusive jurisdiction of Ohio, would expose the parties concerned to criminal prosecutions of a still more serious character."—The prosecutions intimated are plainly for treason; and there must be too much intelligence and patriotism amongst the citizens of Ohio, to doubt a course which a majority of them will pursue when the test is brought before them. The stigma of treason will never, it is trusted, blot the fair escutcheon of any state of our confederacy.

On the 9th of May, Mr. Rush and Mr. Howard are directed by the

President to inform the Governor of Ohio, "that whenever the crisis referred to in the concluding part of the Attorney General's opinion shall arrive, in which the power of the civil officers shall be inadequate to the execution of their duties, it will be the President's duty to employ the means placed in his hands by the constitution and laws to maintain their supremacy; and that however painful it may be, it is a duty which he is determined to perform." On the 20th of the same month, I am again officially advised that "the President has seen with great satisfaction, that Governor Lucas has suspended the marking of the boundary line, and determined to appeal to the wisdom of the legislature; and he trusts, with the opinion of the Attorney General before them, and additional information, the Legislature and the Governor, seeing the difficulties which must attend the execution of the Ohio act, will unite in postponing the whole subject for the action of Congress." At a more recent date, the Governor of Ohio was again notified that the President would interpose his authority, if an attempt were made to re-mark Harris's line with an armed force, as had been intimated in his letter to the Secretary of State of the 1st of June. As late as the 3rd day of July, the Secretary of State, in his letter recommending the acceptance of the compromise alleged to have been proposed by Mr. Rush and Mr. Howard, denies, "the authority of those gentlemen to enter into arrangements for the United States," and says "they have not at any time advised the department of having proposed such an arrangement." I have been thus particular in noticing the sentiments of the general government, that their views, if possible, may be clearly understood; and with the conviction produced by them on my mind, I must indulge the expectation that the recommendation to Michigan, to accept the proposed arrangement, has been prompted only by a sense of courtesy to the assembly of Ohio, and the gentlemen representing their views at Washington.

In the conclusion I have stated, I trust I am not deceived. The views and opinions of the government are expressed with too much decision by its legal officer to be mistaken. The determination of the President has been again and again repeated. A state attempts an open and undisguised violation of the constitution and laws of the country. Is not the federal government clothed with sufficient authority to assert their supremacy? Shall the affections and respect of the people of these United States for our union be alienated and destroyed by treason, disguised in the specious garb of state sovereignty?

Fellow citizens, as individuals cherishing an ardent desire for the perpetuation of our civil institutions, we are bound to resist by all lawful means the slightest encroachment upon the constitution,

attempted through us to be violated. It is a moral obligation which binds us together as a nation.

This obligation will cease to exist, when obedience to the laws is no longer demanded. The precedent sought to be established by the state of Ohio if permitted to pass unchecked, will lead to another, and ultimately precedent will become the highest authority of the country.

Relative to the expediency of adopting the proposed arrangement, but one opinion exists among our citizens. How, I would ask, is a concurrent jurisdiction to be recognized, when neither party is to be permitted to enforce its laws, and the people are to be at liberty to adopt one jurisdiction or another as they may choose? I must confess that I should view such a state of things as highly prejudicial to the rights of Michigan. This arrangement is eagerly sought by Ohio, as she flatters herself that she will, by this means, obtain a possession, from which she cannot hereafter be ejected. If without possession, or even the right of possession, that state is permitted to dragoon us into a partial surrender of our jurisdiction, it may not be unimportant to ask ourselves, what are we to expect, if she once obtains the exercise of a permanent jurisdiction? But how is the jurisdiction of Michigan to be asserted, if no authority is to enforce obedience to her laws? The territorial government is at once annihilated. Criminals committing the highest offences are left at large, if they choose to reject the jurisdiction of the territory. Parties have no remedy before our courts of justice, but every man becomes the asserter of his own rights, or the avenger of his own wrongs. All law is at an end. Such are the practical effects of the proposed arrangement. As illustrating the motives which govern certain individuals at Toledo, and for the purpose of showing the impracticability of a concurrent jurisdiction, I submit the concluding paragraph of the presentment of the Grand Jury of Wood County, Ohio, at the recent session of their court: "The Grand Jury would further present, that from the evidence they have been able to collect, they have come to the conclusion, that there are at Toledo and vicinity, men who have in this affair private and pecuniary objects to accomplish rather than the public good; that although they profess to be friendly to the jurisdiction of Ohio, yet if it is not extended over them in a manner to promote their own private views, they appear to be as willing to resist the authorities of Ohio as those of Michigan—their object apparently being to encourage persecution on the part of Michigan—to resist and perplex the local authorities of Wood County—the more fully to enlist the sympathies of the citizens abroad, particularly of that part of Ohio not immediately acquainted with our local affairs."

The question is, however submitted to your consideration; and it may

be asked, how far the Legislative Council possess the power to outlaw any portion of the citizens of the territory of Michigan? Can they be thrown without the pale of that government which has been established for them by the Congress of the United States? If the power exists in one case, then does it in all; and as justly may the people of the city of Detroit, or any portion of the territory, be exempted from the obligations of citizens, as those residing upon the disputed tract.

Since issuing the proclamation for your assemblage, outrages of a most unjustifiable and unparalleled character have been committed by a number of persons at Toledo, upon officers of the territory, while in the exercise of their official duties. I regret to say, that a regular organization exists among these individuals for the purpose of resisting the execution of the laws of Michigan. This spirit of insubordination is greatly increased by the unjustifiable accumulation at Toledo of arms by the authorities of Ohio, to be used by them as circumstances may demand. Although we may justly expect protection from the general government, when the crisis shall arrive demanding it, it may be worthy of your consideration to determine what measure you should adopt, having in view the maintenance of the rights of the territory under any contingency which may arise. Affidavits and other papers transmitted to you, will furnish you all the information you may desire relative to the recent disturbances.

Although aware that your deliberations at this time should be confined to the chief object of my communication, I must be permitted to recommend an amendment to the act of March 30th, 1835, postponing the election of members of the Legislative Council and the election of a delegate to Congress.—By the provisions of this law the people west of Lake Michigan are authorized to hold an election for delegate and members of the Council. The anticipated contingency will arise by the organization of the contemplated State Government in November next. The general law regulating these elections requires the returns of elections to be made to the Secretary of the Territory, who, with the Attorney General and Treasurer of the Territory, constitutes the board of canvassers, who are authorized to give a certificate of election to the delegate elect. The election, however, occurring before the appointment of these officers under the Territorial Government of Wisconsin, it will be necessary to create some other board of canvassers to meet the emergency, and to empower them to issue a certificate of election. Such an amendment of the act of March 30, 1835, is respectfully suggested for your consideration.

The question submitted to you is one demanding the gravest consideration. In your decision may be involved the most serious consequences to our country. Impressed with the conviction of the high responsibility resting upon you, I invoke your calm deliberation upon

the subject. On the one hand, if you accept the proposed compromise, you sacrifice the rights of the territory, as well as inflict a wound upon the confederacy. One of the leading features of the Federal Constitution is, the protection afforded to the smaller states, against the unjust demands of the larger. A firm adherence to the great objects of that constitution can afford us the only security for our rights and liberties as a state, and as American citizens. Let our government lose sight of the cardinal principles of our union, and there is no safety in its administration. The Republican purity of our ancestors will give way to the contracted sway of temporary expediency. If the demand of Ohio is tamely submitted to, what becomes of the rights of the states? Surrender once to the sordid grasp of a state seeking empire or power, and the period may arrive when one portion of the nation appealing to their own strength, will prescribe laws for their weaker neighbors.

On the other hand, if the arrangement is rejected, violence and insurrection may be the consequence. The anticipation of such events every true American must dwell upon with feelings of sorrow. No one contemplates such an issue to our controversy with more unfeigned pain than the humble individual who addresses you. But upon others, not upon us, rests the responsibility of that issue.

Fellow citizens, the subject is now fully before you. My views are not disguised. Your determination is anxiously expected by the public. You may rest assured, that no personal consideration will influence me in my future course and that you will receive, so long as I discharge the duties of the executive department of the territory, a hearty co-operation in whatever you may determine, consistently with the maintenance of the rights and honor of the people of Michigan.

STEVENS T. MASON.

Nov. 3, 1835.

From *Journal of the House of Representatives*, pp. 6-10.

Fellow Citizens of the Senate and of the House of Representatives:

Summoned by the general voice of my fellow citizens to the station of chief executive magistrate of the state of Michigan, it is with feelings which language is inadequate to express, that I embrace the occasion to convey to them my cordial thanks for this distinguished testimony of their approbation and confidence. If, under ordinary circumstances, the suffrages of this enlightened people had confided to me the exercise of the important and responsible functions of the first office in their gift, the sensibilities awakened by so signal a favor could only have found vent in the silent overflowings of the heart. But to have

realized the honor thus bestowed upon me by them, at a time when a blow had been received from another source, to which it would not become me to refer in a spirit of dissatisfaction, adds to the lively and deep sense of gratitude, which I shall cease to cherish towards them only with the expiring pulsations of life. The emotions with which these reflections oppress my mind, are greatly enhanced by the anxiety induced by a sincere consciousness, that the cares before me are above my ability, and that in venturing upon them I have consulted my capacity less, probably, than the impulses of a premature ambition.

But if the hazardous task has been undertaken without a sufficiently rigid scrutiny into the qualifications requisite for its satisfactory performance, I derive consolation from the reflection, that the deficiencies of the executive will be amply supplied by the talents, the rectitude and patriotism of the co-ordinate branches of the state government. These, with the intelligence and virtue of the people, afford the surest pledges, that the foundations of the policy of this new and rising state will be laid in the immutable principles of morality, justice and benevolence; and that, in its legislation, a comprehensive and correct view will at all times be taken of the various interests embraced within its range. To these sources, then, I look with confidence for that direction and support which may bear us triumphantly through the difficulties and embarrassments incident to the new position in which we are placed.

Assembled, fellow citizens, under a constitution framed with singular care and deliberation, and distinguished by a spirit of peculiar liberality and precision, I congratulate you upon the equally signal unanimity with which it has met the approbation of the people of Michigan. While its provisions guard, with a provident forecast, against any invasion of the rights and liberties of the citizen, they secure an adequate responsibility in all branches of the government* to the primary source of all power. With such a constitution, and with the facilities provided for any amendments which time and experience may suggest as useful or essential, the wisdom of the legislature, a judicious and patriotic administration of the laws, with a cheerful co-operation on the part of the people, cannot fail to secure the solid and lasting prosperity, freedom and happiness of this dawning commonwealth.

The change of government, which is now in the process of completion, has placed us in a new and delicate relation to the legislative and executive authorities of the Union. It is believed, however, that the difficulties presented by the new attitude assumed by the people of Michigan, will readily disappear before the light of examination and precedent, and that a course of forbearance and respect to the rights and powers of others, entirely consistent with our own, will smooth our advancement to the high destiny before us.

Next to the right of self-government and the enjoyment of civil and religious liberty, and essential to these, is the continuance of the union of the states. An ardent attachment to this union is interwoven with every patriotic feeling of the people of Michigan. Nor is there any danger that they will ever voluntarily sanction any measure to weaken its sacred ties. Authorized by the ordinance which gave them territorial being to form a state, with limits defined by that ordinance, and by other laws, they have performed the act which renders them sovereign and independent in relation to all the reserved rights and authorities of an American State. No legitimate proceeding of the general government can again reduce them to a territorial condition. The faith of the nation pledged, in the most solemn and binding forms, to their admission into the Union on an equal footing with the original states, they may anticipate with reasonable confidence the early fulfilment of that pledge. In the mean time, it remains for us to perform all the duties which attach to the relations of a state with the Union; to observe and respect all the general laws which apply to our changed condition; to avoid any legislation which may bring us into collision with the federal authorities, and to await with patience the final recognition of our equal sovereignty by the representatives of our sister states.

By the provisions of the constitution, which has just received the decisive sanction of the people, all laws now in existence in the territory of Michigan, not repugnant to this constitution, remain in force until they expire by their own limitation, or may be repealed by an act of state legislation. All writs, recognizances, and other legal instruments, prosecutions and proceedings at law, are declared to be valid and binding. All officers, civil and military, holding territorial offices and appointments under the authority of the United States, continue to hold and exercise them until superceded under this constitution. I am not aware that the constitution, of itself, immediately supercedes any officer of federal appointment, except the governor and secretary of the territory. No inconvenience or detriment to the welfare of the state, or to the interests of the Union, can arise from so partial a change. The administration and execution of the subsisting laws, will proceed without interruption. The judicial and other functionaries, deriving their commissions from the United States, will continue to enjoy their respective stations, and to perform their duties, until the legislature, giving due time for the legislation of congress on the subject of our admission into the Union, may deem it expedient to organize a state judiciary, and to authorize the election or appointment of other officers, under the constitution. No intermission of

harmonious action and co-operation between the local and federal authorities can be rationally anticipated.

A strict observance of the constitutional division between the powers of the several departments of the government; a scrupulous desire to avoid any violation of the laws which we are bound to see faithfully enforced, or any executive interference with their administration by the judicial tribunals of the state; the exercise of no power not clearly conferred, or incidentally essential to its salutary and effective exercise, are cardinal points which it will be my pride, as it will be my duty, to regard with undeviating fidelity.

The early appointment of the senators to represent the state of Michigan in Congress, and some provision to supply vacancies in local offices, which may be produced by resignation or otherwise, will necessarily occur to the senate and house of representatives, without any special suggestion from the executive on the subject.

The consideration of the general affairs of the commonwealth; the adaptation of the laws to the altered position of Michigan; measures for the development of her fertile resources, for the application of these to the purposes of education and improvement, and all the other interests which come within the province of legislation, for the advancement of the happiness and prosperity of our beloved state, may perhaps be safely and judiciously postponed to a future, yet not distant, day.

It remains, fellow-citizens, that faithful to ourselves, and to our own rights and liberties, we fervently supplicate that Divine Being, who holds in his hands the chain of events and the destiny of states, to enlighten our minds, guide our councils, and prosper our measures, so that whatever we may do shall result in the welfare and tranquility of the people of Michigan, and shall secure to us the friendship and approbation of the nation.

STEVENS T. MASON.

November 13, 1835

From *Journal of the House of Representatives*, pp. 44-45

To the house of representatives of the state of Michigan:

In answer to a resolution of the house of representatives, requesting the Governor to communicate to that house, if in his power, a statement of all loans made on behalf of the territory of Michigan since the year 1830; the specific object for which such loans were made; whether said loans have been applied to the objects contemplated by the laws authorizing the same; whether any part of said

loans remains unpaid, and if so, how much; whether any portion of said loans, or any other sum of money belonging to the state, now remains in his hands, or is under the control of the executive of the state, and if so, how much; together with a detailed statement of all debts and liabilities of the state of Michigan." I am compelled to state, that it is not in my power to comply with the requisition made upon me.

My official connection with the people of Michigan, as the executive of the then territory of Michigan, commenced in July 1835, and I have no information before me exhibiting the liabilities incurred by the territory of Michigan for the two years previous, under the administration of my predecessor. During the period I had the honor to serve the people of Michigan in the capacity of their territorial executive, the only loan negotiated by me was one of twenty-seven thousand dollars, a statement of which has been exhibited to a committee of the house of representatives, and is now before a committee of the senate. In conclusion I would respectfully suggest, that the treasurer is the officer from whom the information contemplated by the resolution of the house of representatives, should be obtained, as he alone possesses the financial records of the state.

STEVENS T. MASON.

1836

February 1, 1836

From *Journal of the House of Representatives*, pp. 57-83

Fellow citizens of the senate and house of representatives:

It would have afforded me the highest satisfaction, fellow citizens, to have been able to communicate to you, at this time, the favorable result of our application for admission into the union as a member of the national confederacy. Entitled to the right of self-government, by the ordinance and acts from which they received their existence as a distinct political community, the people of Michigan had every reason to expect, that this right would have been acknowledged by Congress at an earlier period of their session. In this just and reasonable expectation, however, they have been disappointed, and it is with deep regret I am compelled to state, that their application remains without the final action of Congress, and that its ultimate fate is yet unknown.

We can but believe the motives which may govern that distinguished assemblage of American citizens, the Congress of these United States, in the decision they may arrive at, will be pure and patriotic; neither ought we to doubt, but that that decision, when made, will be favorable to our interests and rights. But, while we feel and acknowledge all this, a duty has devolved upon you, fellow citizens, as the representatives of the feelings and determinations of the people of Michigan, which forbids you to contemplate the objects of your session in any other capacity than that of the sworn legislators of the commonwealth. It is made your duty, by the constitution, to guard against any possible infringement of the rights of your constituents, and I feel assured you will meet the charge with all that fidelity and firmness which its importance demands.

The position which Michigan now occupies with the nation, is a peculiar although not a new one in the history of our government. It is that of a people claiming and exercising all the reserved rights and privileges of an American state, and yet excluded from the bonds of the federal union. By every friend of his country, this state of things is deeply to be deplored; and its continuation must lead to the most unfavorable results to our permanent welfare as a nation, as it is calculated to weaken the ties by which the American people are bound together. The great object of your session is to remedy this evil, so far as it can be effected by your councils and advice, without

the surrender to the general government or to others, the natural as well as sacred compact rights of the people whom you represent.

The work before you then, is one of most vital importance to the nation and the state, and is of a character which demands your gravest consideration. The proceedings which have been adopted in the effort to secure us the privileges of self-government, have resulted from the deliberate action of the people of Michigan; and the decision of that people cannot be tamely abandoned. No event therefore could fill them with greater anxiety than that which your session creates, for it is to your wisdom, firmness and decision, that our fellow citizens look for that support which is to bear them triumphantly through the embarrassments which now surround us, and advance them on the pathway of happiness and prosperity to which our rising commonwealth is destined.

It may not prove unimportant to a correct understanding of the position which we occupy, that I should briefly trace the measures and proceedings which have been adopted by your constituents, in the establishment of their state government, and in their efforts to obtain admission into the union as one of the states of the American confederacy.

Under the impression, that the then territory of Michigan possessed a population sufficient to justify an application for her admission into the union as a state, the legislative council in eighteen hundred and thirty-one passed a law taking by a direct vote the judgment of the people on the expediency of forming a state government. The result of this vote was an almost unanimous expression in favor of a state government. Anxious, however, to secure the approbation and support of the general government in the effectuation of so desirable a measure, petitions were for several years presented to Congress, asking the passage of a law by that body, authorizing the people of Michigan to form a permanent constitution and state government. These repeated applications were, however, unsuccessful, not receiving the action of Congress.

Deeming the wishes of their constituents to be neglected, and their just rights denied them by Congress, the legislative council directed the enumeration of the inhabitants of the territory of Michigan to be taken in the year eighteen hundred and thirty-four. The returns of this enumeration exhibited a population of nearly one hundred thousand, being equal to the ratio for two representatives in Congress, according to the federal apportionment. Application was again renewed to congress by the legislative council, asking for Michigan the same liberality as had been extended to all the new states when admitted into the union, with less than one half her population, and these

petitions, notwithstanding our greatly increased number of inhabitants, were again disregarded.

Wearied with making repeated applications, and having no reason to believe that the policy of congress would be changed, the legislative council in obedience to public sentiment, and by virtue of an authority derived from the irrevocable ordinance of seventeen hundred and eighty-seven, on the twenty-fourth day of January, eighteen hundred and thirty-five, passed "an act to enable the people of Michigan to form a constitution and state government." The convention under this law met in May of the same year, and the result of their labors was the state constitution under which you are now assembled. A question has arisen as to the right of the people to adopt this constitution without the previous authority of congress, and with it is consequently involved the power of the legislature to enter into the enactment of laws at their present session. It will be my duty, fellow citizens, to submit to you the result of reflections on this subject, without permitting myself to direct in measures which are exclusively within your province, as the legislative department of the government.

Most of the states that have been admitted into the union since the adoption of the federal constitution, had received the previous assent of congress by a law enabling the people to form a permanent constitution and state government.—This power to admit new states, was derived from the provision of the federal constitution, which declares that new states *may* be admitted into the union. The power here given congress, strictly construed, was intended to apply to cases where new states were to be formed out of the territory *acquired by the United States after the adoption of the federal constitution*. Under the old articles of confederation, the vote of nine states was required to admit a new member into the confederation. In the convention to form the federal constitution, this power of admitting states was one of the questions attended with the greatest difficulty in its adjustment; the other question was, the basis of representation in congress. To such a degree had the divisions on these subjects extended, that the convention were several times on the eve of an adjournment without accomplishing anything. The congress of seventeen hundred and eighty-seven were then in session, and the states having then ceded to the United States their western lands, all eyes were turned to that region from which it was considered that many new states were ultimately to arise. The passage of the ordinance of July thirteen, seventeen hundred eighty-seven, by which slavery was excluded from the north-western territory, and the right of the states to be formed out of it, to admission into the union secured on the happening of a certain

contingency, settled these perplexing questions as to the then territory of the United States.

It was the adoption of the ordinance of seventeen hundred and eighty-seven that chiefly led to the compromise which gave a favorable result to the labors of the convention, and that ordinance may be considered as it were a part of the federal constitution itself. The provisions of this ordinance were well understood by the members of the convention, and in all cases where those distinguished individuals have been required to act upon questions involving the powers to be derived from the articles of the compact, a construction has been given to those articles similar to that which is now claimed by Michigan. The facts stated are drawn from the history of the government.

A more distinct understanding of the subject may however be derived, by an examination of the proceedings of congress about the period to which our attention is directed.—The cession by Virginia was made in seventeen hundred and eighty-four, at which time congress had passed a resolution for the government of the territory ceded by the states to the United States. A leading provision of this resolution declared, "that whenever any state shall have acquired twenty thousand free inhabitants, on giving proof thereof to congress, they shall receive from them *authority with appointment* of time and place to call a convention of representatives, to form a permanent constitution for themselves."

Here it was expressly required, that an authority should be first obtained from congress to enable the state to form a permanent constitution. Virginia however having at the instance of the federal government, altered her cession in conformity with the fifth article of the ordinance of seventeen hundred and eighty-seven, so as to form in the territory ceded by her not less than three nor more than five distinct republican states, the provisions of the resolution of seventeen hundred and eighty-four ceased to have force in the northwestern territory. The absorbing question of admission of new states occupying the attention of the federal government at the time of the repeal of the resolution of seventeen hundred and eighty-four, the conditions of their admission were changed, and by the fifth article of the ordinance it was expressly declared, "that when any of the said states shall have sixty thousand free inhabitants therein, such states shall be admitted by its delegates into the congress of the United States, on an equal footing with the original states, in all respects whatever; and shall be at liberty to form a permanent constitution and state government."

This guarded provision was evidently introduced for the purpose of securing to the people of the northwest territory the privileges of

self-government by a designated period, and beyond which time they were not to be subjected to the discretionary control of congress; the time designated was also to be ascertained on the *happening of a certain contingency*. The resolution of seventeen hundred and eighty-four required the previous authority of congress before any of the states were at liberty "to form a permanent constitution and state government." It was seen by the framers of the ordinance that this unrestricted power in congress, would, in times of high party excitement or sectional jealousies, operate as a perpetual barrier to the admission of the new state, and it was for the purpose of remedying the dangerous evil, that the right of admission into the union and the liberty to form a permanent constitution and state government, were secured to the people of the northwest territory whenever any of the states possessed a population of sixty thousand free inhabitants. Authority was at the same time given to congress to admit these states at an earlier period, so far as might be consistent with the general interest of the confederacy. This power was transferred to the federal constitution; but in the event that congress should not deem it fit to exercise this right when asked at their hands by the states, it was ordained that the people of the states might of themselves assert the right of self government on the happening of the contingency provided in the ordinance.

If the principle is correct that the provisions of the ordinance of seventeen hundred and eighty-seven are inoperative without the sanction of congress to form a permanent constitution and state government, then are the people of Michigan in substance, forever deprived of the right of self-government, and left under the discretionary control of the sovereign will of congress. If with a population of one hundred and fifty thousand inhabitants, we are now to be denied the right of self-government, we could have no right to expect it, even though we might boast "a million of free-men." Such a construction given to the ordinance of seventeen hundred and eighty-seven, would have reduced the people of the northwest territory to the condition of vassals of the general government, and would have rendered the states to be formed therein, the mere dependencies of a federal head. It is an abuse of this power if conceded by us which should be feared, and we are not to yield it to congress because patriotic and virtuous men now direct the councils of the government. A vigilant regard for our rights should teach us, that power once surrendered is seldom if ever recovered, and that although exercised with forbearance at first, it may become ultimately oppressive. Instead of permitting the force of the state government to be lessened or injured, it is our duty as far as we can to see them strengthened, for it is to their increase

and strength, "that the American republic will owe its firmness and duration."

The act of congress of January 11th, eighteen hundred and five, erecting the territory of Michigan into a separate government, secured to the people of this state "all the rights, privileges and immunities granted and secured to the people of the territory of the United States northwest of the river Ohio by the ordinance of seventeen hundred and eighty-seven." Among the rights thus secured, is the sacred privilege of admission into the union as a state, and also the liberty to form a permanent constitution and state government, whenever our population should equal sixty thousand free inhabitants. This contingency has occurred, and Michigan has performed the act which places her beyond the legitimate control of the general government, in relation to all the reserved rights of an American state. In doing this, she has followed a precedent established by a state of the union. In seventeen hundred and ninety-four, Tennessee, by virtue of the fifth article of the ordinance of seventeen hundred and eighty-seven, formed a permanent constitution and state government, without the previous authority of congress, and was admitted into the union as an independent state. At that period, Virginia, North and South Carolina, states most interested as parties to the compact of seventeen hundred and eighty-seven, by their representatives in congress, contended that the proceedings of Tennessee were just and legitimate. The delegates from these states included, among their numbers, many of the most conspicuous members of the federal convention, and also of the congress of seventeen hundred and eighty-seven, which framed the ordinance; and their votes should be conclusive of the rights given to the new states by that instrument, as the intentions of congress at the time of its adoption must have been understood by them.

The precedent of Missouri is also one in some respects analagous to the present position of Michigan. It was then established as a fundamental principle of our government, that "when a people are authorized to form a state and do so, the trammels of their territorial condition fall off, and they have performed the act which makes them sovereign and independent." Missouri derived her authority from the ordinary act of congress, and although excluded from the union for more than one year, her territorial government ceased on the adoption of her constitution, and she became vested with all the rights of state sovereignty. The act of congress left no power in the general government to recall the authority delegated to the people of Missouri, or to remand them back to a territorial condition. If the rights vested in the people of Missouri were deemed inviolable by congress, can it be supposed that those held by the people of Michigan under a solemn

"compact, declared to be unalterable except by common consent" will be considered less sacred.

The provision of the ordinance of seventeen hundred and eighty-seven under which the people of Michigan claim their right to form a state, admits of but one construction, and can convey but one meaning. Its language is plain: "whenever any of the states shall have sixty thousand free inhabitants, such state *shall* be admitted into the union on an equal footing with the original states, and *shall be at liberty* to form a permanent constitution and state government." The population of Michigan exceeding sixty thousand free inhabitants, she is authorised to form a state; the trammels of her territorial condition fall off; and she has performed the act which makes her sovereign and independent.

The essence of freedom is self-government. Of no rights should the people be so tenacious as those which are political. Under the constitution and laws of the land, we are secured in the exercise and enjoyment of our personal rights. The moment the national legislature vests in the citizen his land or other property, his possession becomes absolute and it is protected by the tribunals of the country. The rights and privileges of a petty corporation secured to them by law, are held sacred and inviolable. Are not the political rights of a community of freemen equally to be observed and protected? Are the privileges of self-government derived from nature and secured by compact now to be denied us? The faith of the nation is pledged for the observance of this compact.—That faith once violated amongst ourselves and it will be in vain to demand a respect and obedience to the laws. The confidence of the people is the greatest security by which the government can act. It rests for its support upon their affections, not their fears; its strength is moral, not physical. Let us then beseech the general government, with that patriotism and wisdom which now and has ever distinguished its councils, to weigh well the grave question before them. It involves considerations above the interests of a day.

The articles of the ordinance of July thirteenth, seventeen hundred and eighty-seven, are declared to be "articles of compact between the original states, and the people and the states in the territory ceded by Virginia, and to be *forever unalterable*—except by common consent." Michigan is one of the parties to this compact. The government of the United States is bound by the most solemn forms to fulfil the obligations of the compact; a compact which from its provisions carries with it all the weight and binding force of a treaty. Treaties are held most holy and sacred among all nations, and that government is justly marked with infamy which violates its faith. The general government

are now called upon to redeem their pledge. No just reason exists by which they can be released from its binding force. The language of the compact of seventeen hundred and eighty-seven is explicit; but if tortured into doubt, the first principles of international law declare, "that in all doubtful cases treaties shall be construed in favor of these for whose benefit they were made." The compact of seventeen hundred and eighty-seven was made for the government and benefit of the inhabitants of the territory of the United States northwest of the river Ohio, of whom the people of Michigan constitute a portion. The general government are then required to fulfil the pledge for the admission of Michigan as a state, and preserve from pollution our hitherto unsuspected and unstained government.

If there ever was a time when this nation ought to set an example of good faith it is now, when we are involved in an unsettled controversy with a foreign power. This controversy involves all the principles which are now called in question by the ordinance of seventeen hundred and eighty-seven. The eyes of the civilized world are upon us, and it is trusted and believed, that our government will not violate that law which they demand others to observe. The character of the proceedings of France has been pronounced by the indignant voice of the nation with an unanimity not to be mistaken, and seldom if ever equalled. Our national faith has never been suspected or violated, and we may hope that it is not to occur for the first time with our own citizens. On the contrary we may trust that the general government by a fulfilment of its obligations with the people of Michigan, will give a pledge to the world, that the United States will as eagerly protect honor from the suspicion of violated faith, as from the insults and injuries of foreign aggressors. A manly sense of national dignity has been inspired by our controversy with France, which if encouraged by every department of the federal government, cannot fail to become the sure foundation of national prosperity and glory.

The incidental question of boundary has been connected with our application for admission as a state, and seems to be attended with some difficulty of adjustment. It is alleged by the parties interested, that the boundaries of Michigan as designated in her state constitution, encroach upon those claimed by the states of Ohio and Indiana, and that Michigan should not be admitted until she yields all claim to the territory involved in dispute by this conflict of boundary. The objection is not tenable. The act of congress of January eleven, eighteen hundred and five, by which Michigan received her political existence, described our southern boundary in conformity with the ordinance of seventeen hundred and eighty-seven, and designated it, to be "a line drawn east from the southerly bend or extreme of Lake Michigan

until it shall intersect Lake Erie." Our state constitution embraces this boundary. The state of Indiana claims and exercises jurisdiction north of this line under an act of congress; Ohio claims by her own will and power. In the case of Indiana it is contended, that her boundaries have become vested under the act of eighteen hundred and sixteen, authorizing her citizens to form a constitution and state government. If this argument is entitled to weight with congress, may it not be asked if the vested boundaries of the people of Michigan under the act of eighteen hundred and five, are not entitled to equal consideration. By the ordinance of seventeen hundred and eighty-seven and the act of eighteen hundred and five, our boundaries are designated as claimed by us, and the right of admission as a state is expressly authorized and secured when our population should equal sixty thousand free inhabitants. It was the people of that part of the territory of the United States lying north of the east and west line drawn through the southerly bend or extreme of Lake Michigan, and none other, who were authorized on the happening of this contingency to form a permanent constitution and state government. The boundaries of the territory thus set apart, became absolute and fixed and congress reserved no power to alter them.

In eighteen hundred and sixteen, when Michigan was unrepresented in congress, the then territory of Indiana procured the passage of a law encroaching upon and violating the boundaries of the territory of Michigan, as established by the compacts of seventeen hundred and eighty-seven and eighteen hundred and five. This legislation was inadvertent on the part of congress, and was urged for the purpose of secretly securing to Indiana the mouth of the St. Joseph river on Lake Michigan, the line designated in the law being supposed to include the mouth of that river. Had Michigan been represented in congress, or had the question been agitated, it is not to be believed that our boundaries as established by the act of eighteen hundred and five, would have been encroached upon or attempted to be altered.

If then the error first originated with congress, it may scarcely be deemed competent for that body to cancel an act of injustice, by a repetition of injury. The act of eighteen hundred and five was passed eleven years previous to that of eighteen hundred and sixteen, and if their provisions conflict with each other, it is not within the province of congress to determine upon the constitutionality of its own measures.—There is another tribunal of the country which holds the exclusive cognizance of such cases. Acts of congress can never quiet claims to vested rights. Additional legislation by congress on the subject of boundary, can never bar a right of appeal to the supreme court. The admission of Michigan as a state, will hasten this appeal in all cases

where we may believe our rights have been violated, and instead of the angry and unhappy controversies attending upon our exclusion from the union, the question at issue will be amicably adjusted in the peaceable mode pointed out by the constitution.

In reference to the claims of the state of Ohio, we have nothing to yield, but will endeavor to maintain our jurisdiction, awaiting patiently the decision of the constitutional tribunal. It may, however, be remarked, that the territory in dispute not having been confirmed to Ohio *previous* to the formation of the constitution of Michigan, it has become a legitimate part of the *state of Michigan*, and the question is taken from the hands of congress; it constitutes legally a part of the territory of the state in conformity with the act of eighteen hundred and five, and any attempted legislation of congress to bestow it upon Ohio, on bare questions of expediency would be unauthorized and unconstitutional. If the territory in contestation does not *legally* belong to Ohio, the time has passed when congress have a right to present it to her as a gift, on the exclusive ground of expediency. The rights of the people of Michigan are held by no such slender tenure.

The claim of Indiana, however, is of a different character, and merits graver consideration. She holds the territory under an act of congress, and has exercised jurisdiction over it since the time of her admission as a state. It has never been the intention of the people of Michigan, to attempt the extension of jurisdiction over this territory, unless sustained in the act by the previous decision of the supreme court of the United States. If they had the strength enabling them to effect it, they have seen the reprobation of the nation stamped too plainly upon a precedent before them, to justify on their part the premeditation of such a measure. As I have before stated, the supreme court alone can quiet our claim, and the people of Indiana hazard nothing by awaiting that decision, provided Michigan pledges herself not to attempt, in the mean time, the interruption of their possession. If the decision of the court should be against Indiana, that patriotic state will yield to the constitutional decrees of the country; if in her favor, she loses nothing by our admission as a state.

It is then a spirit of forbearance, and with an anxious solicitude for the tranquility and happiness of the country, that I wish to call your attention to this subject. I am not aware that the ordinance attached to our state constitution, gives to our representatives elected to congress, any authority to consent to a change of our boundaries. A strict construction of the provisions of this ordinance, would seem to forbid such a delegation of power. It is competent, however, for the legislature to pass a declaratory act, pledging the faith of the state, in as binding a form as their powers will admit, that no law shall

be passed by Michigan intended to interrupt the possession of Indiana, until authorized by the decision of the supreme court, or by a compromise between the parties interested. Legislation of this character is not without a precedent, and if adopted should certainly remove the objections entertained by any portion of congress, so far as the interests of Indiana may be involved in the question of our admission as a state.

When Missouri formed her state government in eighteen hundred and twenty, one of the fundamental articles of her constitution vested in the legislature, power to pass laws preventing the emigration of free blacks into the state. This provision of her constitution was objected to by congress and her admission into the union delayed on that ground. On the twenty-second of March eighteen hundred and twenty-one, a joint resolution passed both houses of congress, and was approved by the president, providing for the conditional admission of Missouri. The resolution provided, that Missouri should be admitted into the union on an equal footing with the original states, upon the fundamental condition, that the objectionable clause of the constitution "submitted to congress on the part of said state, should never be construed to authorize the passage of any law, and that no law should be passed in conformity thereto:" "Provided the legislature of the said state, by a solemn public act, shall declare the assent of the said state to the fundamental condition" as stated.—This resolution was submitted to the legislature of Missouri in the month of June, of the same year, and the proposition from congress therein contained, was accepted and made known by a public legislative act. The act of Missouri having been received by the president, he issued his proclamation in pursuance of the resolution of congress, declaring the admission of the state into the union to be complete. The objectionable feature in the constitution of Missouri remains to this day an article in that instrument of government, and no legislation has ever been adopted in conformity with the power there conferred.

I have thus fellow citizens submitted to you the views which have occurred to me, relating to the important interests of your session. That we cannot again be subject to a territorial condition is my firm and deliberate conviction.—In the expression of that conviction, I believe I am sustained by a majority of my fellow citizens. It is however by the constitution wisely committed to the legislature to determine, whether the organization of our state government shall be completed at this time, or shall await the further action of congress on the subject of our admission. In either event it is my duty to make known to you fully, the sentiments of the executive on such subjects as may be brought before you in the progress of your future deliberations.

Should you adjourn to another day, awaiting the decision of congress, it will give time for reflection, and afford you an opportunity to consult the wishes of your constituents on the different subjects, which may be embraced within the recommendations of the executive. It is with such views, that in obedience to the constitutional injunction, I proceed to recommend for your consideration, such measures as are important to the immediate interests of the state.

Among the first subjects which will naturally occupy your attention as the representatives of a new state, will be that of internal improvements. The natural advantages of Michigan for the purposes of commerce and agriculture are not exceeded by any state of the union, and too much of your attention cannot be bestowed in maturing a prudent and judicious system of legislation for the development of those resources of wealth. The constitution enjoins upon the legislature the encouragement of this branch of our state policy; and it is made their duty, "as soon as may be, to make provisions by law for ascertaining the proper object of improvement, in relation to roads, canals, and navigable waters."—The spirit and enterprise, which has arisen among our citizens, if fostered and encouraged by the state, cannot fail to lead to lasting prosperity. Your liberal legislation should embrace within its range, every section of the state. No local prejudices or attachments should misdirect the equal liberality with which you should guard the interests of your constituents. The wealth of the state must be composed of the individual wealth of its citizens, and in this respect no portion of them are independent of the other.

In obedience to the constitutional provision, which requires you to provide for an equal, systematic and economical application of the funds that may be appropriated to objects of internal improvement, I would suggest for your consideration the propriety of the appointment of a competent engineer, commissioner, or board of commissioners, as may be most conducive to the end contemplated, whose duties shall be regulated by law, and who shall be required at each session of the legislature, to report the result of such investigation as may have been previously directed. The appointment of the first named officer would probably meet the object in view, and would certainly prove most economical, as his duties might be diversified as the interests of the state should require. Through this medium the most desirable and practicable works of internal improvements will be brought before the legislature, matured for their action—preventing the hasty undertaking of useless, if not impracticable projects, and directing the energies and resources of the state in such channels, as will be productive of the greatest good to the greatest number of our fellow citizens.

The fourth section of the ordinance attached to the state constitution, embraces a proposition to congress for a donation of lands for purposes of internal improvement, the proceeds of the sale of which it is declared, "shall be appropriated to aid in constructing one or more rail roads or canals across the peninsula from Lake Erie or Detroit river to Lake Michigan, and also to aid in the construction of such other roads and canals, and in the improvement of such rivers as the legislature may direct." This donation when obtained as it certainly must be, if urged upon the liberality of congress, will afford a fund ample to give effect to our plans of internal improvement; and so important is it to the interest of the state, that I would suggest the propriety of calling the immediate attention of congress to the subject. The government have heretofore extended a liberal and fostering hand to all the new states admitted into the union. Large donations of lands have at different periods been made to them, for the purpose of effecting their systems of education and internal improvement. No just reason can be urged why the same liberality should be withheld from Michigan. The United States have drawn from us a large amount of revenue by the sale of public lands. These lands are daily decreasing, and with the rapid immigration to the state, and the extensive purchases of speculators, Michigan must soon be deprived of her just heritage, unless she is admitted as a state during the present sitting of congress, or donations otherwise secured to her. It is but a short period when all the valuable lands in the peninsula of Michigan, will be placed beyond the reach of congress. I deem it therefore highly important, that you should present the subject fully to congress at their present session, and ask that the portion of lands due Michigan should be secured to her without further delay.

Our citizens have already designated, and through their individual enterprise with a zeal highly commendable, have undertaken the construction of several important rail roads. While it is the duty of the legislature, to afford every aid in their power to facilitate the construction of these important works, it is also desirable, that they should never be beyond at least, the partial control of the state. So important is their construction to the permanent interest and prosperity of the state, that I would recommend the passage of a law, authorizing a subscription in behalf of the state, to a large amount of the capital stock vested in the companies which have these roads in the progress of completion. I am satisfied that a sufficient loan for this purpose may be effected on the faith of the state, by offering a comparatively trifling commission to the banking houses of the eastern cities for its negotiation. At least, the importance of the measure will justify the effort. The lands which must be obtained by Michigan from congress,

for purposes of internal improvement, if guarded with a prudent husbandry, would enable us to extinguish the debt contracted, and ultimately become a source of additional revenue to the state.

So manifestly important is the subject of internal improvements, that I feel it unnecessary to urge it more fully upon your consideration. Our sister states are alive to this branch of their domestic policy, and an enlarged spirit of enterprise has recently arisen, which justifies the belief, that a union and connection will soon be effected, among all the great internal improvements of the country. It is to be hoped that the day is not far distant when Michigan will be permitted to participate in this grand undertaking. An undertaking which will unite our interests, and annihilate the space which has created and kept alive local prejudices and feelings among the different sections of the union; and which by extending the veins of internal improvement throughout the body of the confederacy, will concentrate our affections in the great heart of the republic.

The receipt of the treasury during the year eighteen hundred and thirty-five, amounted to ten thousand five hundred and ten dollars. The current and ordinary expenses during the same period, were eleven thousand and eighteen dollars exhibiting a balance, together with local loans against the treasury, of nineteen thousand four hundred and ninety-five dollars. Under the law of November last, authorizing a permanent loan of one hundred thousand dollars to meet this debt, and for other purposes, a negotiation has been entered into, the result of which will be communicated to you by a special message. All the ordinary expenses of the state government must now be met by taxation upon our fellow citizens, and it will readily occur to you, that a wise system of legislation will abstain from placing this burden upon the people beyond the absolute wants of the government. It will be your duty to substitute a rigid economy in the place of taxation, and to refrain from all expenditures which are not necessarily demanded by the interests of the public. For many years the heavy expenses of the state, in the completion of important and essential state improvements, must be sustained and accomplished by loans on the credit of the state.—This is preferable to immediate taxation, for as our population and wealth increases, the burden of taxes will be more distributed, our means greater, and will be less felt by the people. Loans must, for the present, be resorted to necessarily, and you will find our credit only to be maintained, by method in conducting our financial concerns, economy in our expenditures, and punctuality in our contracts. These are subjects which should claim your rigid scrutiny and attention. No loan should ever be negotiated without a provision being first made for a ready and certain payment of the interest on the debt

contracted, and for the redemption of the principal, by a separate and distinct fund created for that purpose.—Without punctuality in the fulfilment of our obligations, the credit of the state would soon be prostrated; with it, it is easily sustained.

Ours is said to be a government founded on intelligence and morality, and no political axiom can be more beautifully true. Here the right of all are equal, and the people themselves are the primary source of all power. Our institutions have levelled the artificial distinctions existing in the societies of other countries, and have left open to every one the avenues to distinction and honor. Public opinion directs the course which our government pursues; and, so long as the people are enlightened, that direction will never be misgiven. It becomes then your imperious duty, to secure to the state, a general diffusion of knowledge. This can in no wise be so certainly effected, as by the perfect organization of a uniform and liberal system of common schools. Your attention is therefore called to the effectuation of a perfect school system, open to all classes, as the surest basis of public happiness and prosperity.

The constitution declares, that the legislature shall provide a system of common schools, by which a school shall be kept up and supported in each school district at least three months in every year; and it also provides for the appointment of a superintendent of public instruction, whose duty it shall be to direct and superintend said schools. Our school fund will be ample for all our purposes, if the lands are properly managed, and I would direct your immediate attention to that branch of the subject. Under the direction of the government, section sixteen in each township is reserved for schools, and under the act of congress of January twenty, eighteen hundred and twenty-six, seventy-two sections of land are reserved for the use and support of the University of Michigan. Forty-nine sections of the university lands have been located, and consist of some of the most valuable tracts on the peninsula of Michigan. I would suggest that the proper authority be requested to make the remaining locations. Those locations, if judiciously made, will, when brought under the control of the state, place the university of Michigan among the wealthiest institutions of the country; and under proper direction render it an ornament and honor to the west.

The organization of the judiciary department of the government, and the revision of the laws will doubtless occupy much of your time and attention. A supreme court is established by the constitution leaving to the wisdom of the legislature, the organization from time to time of such inferior courts as the public interests and convenience may demand. You have before you fellow citizens the judicial systems

of the different states which have been tested by experience, and it would be unnecessary, if not supererogatory in me to recommend for your adoption, any specific system. I may, however, be permitted to suggest, that our jurisprudence might be simplified without detriment to the public.

It may justly be a matter of curious speculation, that in a government like ours, known to be admired for the simplicity of its institutions, we are yet surrounded by the dark and hidden mysteries of the law. In the science of government, and in all the arts, improvements have been made; while in the science of law, we remain stationary, and are compelled to refer to the remotest antiquity of England, for rules, by which to decide the simplest questions of right and wrong between citizen and citizen. I am aware that the learned profession, generally object to any interference with this long established usage, urging, that if it possesses evils, they are evils incident to all the works of man; and that any attempt to remove its useless branches would be attended with danger to the whole system. I would not have the remedy the work of a day. The time must perfect it; and if the evils cannot be entirely removed, they may at least be partially remedied.

I would begin by degrees to lop off useless branches and with periodical revisions, our laws may at least be understood by others than those, who have made their interpretation a profession. The remark applies to all classes of society, for no man however elevated his position, without the labor of years, can understand the common and statute law of the country. Like the ancient tyrant, we place our tables beyond the reach of the people, and although unable to inspect them, they are subjected to their penalties. Few men can now determine by what mysterious rules, his rights are adjusted. The purity of the bench and long established custom, command his respect and submission to the decrees of the court, yet the citizen stands a silent, obedient, but ignorant and wondering spectator of its proceedings. I have made these suggestions, that your attention might be called to the subject; I leave it fully satisfied, that in the legislation you may adopt, you will be guided by the best interests of your constituents.

One of the greatest evils under which the public are now suffering, is the want of an improved and regular penitentiary system. To such an extent has this evil grown, that the ends of justice are entirely defeated, by the want of the necessary and proper buildings for the confinement of criminals. The great object of the law in inflicting a penalty for the commission of crime, is the reformation of the offender. At present, however, this end is worse than defeated. Crowds of criminals collected within the narrow precincts of your jails, in constant

communication and association with one-another, become deeper and deeper steeped in corruption. The place of reformation is made the school of vice; and the minor offender becomes the ready pupil of the hardened villain.

Man is a social being, and the society of his fellow man is essential to his happiness. Until deprived of this source of pleasure, the condemned criminal will never realize the degradation to which he has fallen. Solitary confinement can alone awaken the expiring spark of morality and virtue; and the meditations of solitude communing with a guilty and upbraiding conscience, may ultimately overcome the dominion of vice.

Our contiguity to the province of Upper Canada, will always subject us to the depredations of fugitives from other states. The evil is constantly increasing, and strengthens the demand for reformation in our penitentiary system. The general government are equally with us interested in this subject, as the numerous violations of the laws of the United States, constitute one half the criminal prosecutions of our courts. In all such cases the United States are a party, and it is with a view that they should bear a portion of the burden, I would recommend, that an application be made to congress for a donation of lands to aid in the erection of a penitentiary, competent to meet the requisitions of society. I cannot believe that congress would refuse, if made, a petition so reasonable and just.

The recurrence of the election of president and vice president of the United States, during the present year, will suggest to you the passage of a law for the choice of electors to represent the sentiments of the state, in the event that we are permitted to participate in the election of those high and important officers. The mode adopted by the states for the choice of electors, is either a vote by the people by districts, a vote by general ticket, or by the legislature. The general ticket system is the one most usually adopted, is the safest, and most in conformity with the spirit of our institutions. Power can be nowhere trusted with so much safety, as with the people themselves. The substitution of intermediate bodies in the expression of their will, is, to say the least, unnecessary, and should therefore be brought as near home to them, as circumstances will permit. Those representing the people are sometimes liable to the influence of intrigue and corruption; but the great body of the people never are, and will best represent their own will.

Among the numerous acts of legislation which you will be called upon to consider, none will require greater deliberation than those of incorporations. The constitution has wisely ordained, that the legislature shall pass no act of incorporation unless with the assent of at least two thirds of each house. This guard in the constitution is of itself

evidence of the care and caution, with which the power conferred should be exercised. It is a question in my mind, whether corporate powers should ever be extended to associations in ordinary trade. That branch of industry may be considered most thriving, when left free to individual enterprise.

In all cases of applications for charters for banking purposes, the most prudent care should be exhibited by the legislature. It is a difficult point to arrive at in legislation on this subject, where the issue of paper as a circulating medium, will answer the convenience and demands of the public, without deranging the currency, and endangering the prosperity of the community for whose benefit it is intended. Gold and silver have by common consent been made the representatives of every species of property. Bank notes are but the representatives of gold and silver, and derive their value from this basis. Excessive issues of notes are calculated to engender over trading in the community, drive the metallic basis from the country, and are apt in case of sudden emergencies in the money market, to be attended with consequences disastrous to the public. In arriving at just conclusions on this subject, we need not consult the theories of political economists, but refer to the practical history of the country as it is presented before us.

The importance of an immediate extinguishment of the remaining Indian title within the peninsula of Michigan, will readily occur to you. The history of this unfortunate race should excite our sympathies, and it is but justice to them, that they should be removed to a quarter where secure from the encroachments of the whites, they may be left free, to follow their own pursuits of happiness. The tide of immigration which is now setting in towards Michigan, must overflow those tribes within our borders; and the history of the southern states should warn us against the occurrence of similar events in our own. This can only be prevented by the removal of the source from which the evil must certainly flow. I would therefore suggest that an application be made by the legislature to the general government, requesting an appropriation for the purpose, and the appointment of commissioners to negotiate with the Indian tribes, for all their remaining lands within the peninsula. The Indians themselves are now prepared for this measure, and the opportunity presented should not be lost.

I have received from several of the southern states, proceedings of their citizens and legislatures, calling the attention of the other states, to the exciting question of the abolition of slavery. With the abstract merits of slavery you have nothing to do in your legislative capacity. Let it be for good or for evil, the south is not to be made responsible for its existence; it is a stream which emanated from the fountain of kingly power while under the mother country, and has now become

united with our political system. The federal constitution has left its regulation among the reserved rights of the states, and it cannot by any implication of power be delegated to the general government. If slavery be a curse to the states in which it exists, time and their own experience will correct it; if a blessing, it is their right, and cannot be taken from them. But in a government like ours, where public sentiment directs its course, it becomes the duty of the people through their representatives, to manifest their sentiments upon all questions of public interest, and more especially upon those which agitate and interrupt the tranquility of the country. It is with this view, fellow citizens, that I call your attention to this alarming subject; a subject perhaps involving our permanent existence as a united nation, and I trust you will meet it impressed with the sensibility, "that a government held together by the bands of reason alone requires much compromise of opinion."

In conclusion, fellow citizens, permit me to hope, that unity of action and harmony of feeling will characterize your deliberations. The position in which we are placed towards the general government, is deeply to be regretted. But it is one of necessity, not of choice. We are not engaged in encroachments upon the rights of others, but in maintenance of our own. The right of self-government is derived from nature, has been secured to us by the plighted faith of the nation, and we have only claimed it after the most patient forbearance, when every other hope had been extinguished.—The people of Michigan have asserted the right, and it is not to be believed they will shrink from the measures they have adopted. They commit their cause to the even handed justice of that Being who doth no wrong, earnestly beseeching Him to prosper the labors of those to whom they have confided their hopes and interests, and to awaken the minds of those who direct the councils of the nation, to that sense of justice which will open to our infant state the temple of the republic.

STEVENS T. MASON.

February 11, 1836

From Journal of the House of Representatives, pp. 118-119

To the Speaker of the House of Representatives:

In compliance with a resolution of the house of representatives, requesting the Governor to communicate any information in his possession relative to the location of the two townships of land granted by congress for the purpose of an University in this state, and whether the sum of one hundred dollars appropriated by an act of the Legislative council or any part thereof, has been expended under the provision of

said act, and also what number of sections have been located under the act of Congress granting the said two townships of land, and what measures if any should now be taken by the present legislature to secure all said lands for the use of said University, I submit the following report:

By an act of Congress approved May 20th, 1826, the secretary of the treasury was authorised to set apart and reserve from sale out of any public lands within the territory of Michigan to which the Indian title may be extinguished and not otherwise appropriated, a quantity of land not exceeding two entire townships for the use and support of a University within the peninsula of Michigan. Under the authority and by the direction of the secretary of the treasury, forty-nine sections of those lands have been located, and are now held in trust by the general government for the state of Michigan.

The most direct mode of obtaining the location of the remaining twenty-three sections is by an application to the secretary of the treasury, requesting him to designate the officer under whose direction the location shall be made. Heretofore the Governor of the territory of Michigan, was the officer selected.

A special act of Congress will be required to secure all the lands for the immediate use of the State. At present they are held in trust for the use of a Seminary of Learning, and it is important that the legislature should direct its attention to the organization of this institution with as little delay as possible. I should confidently believe that an application if made to Congress at their present session for the passage of a law transferring these lands to the exclusive control of the state of Michigan would receive their favorable action.

In relation to another branch of the inquiry of the House, I report that the sum of one hundred dollars appropriated under an act of the legislative council has never been drawn from the treasury in consequence of no individual ever having been designated to make the locations of land as contemplated by the provisions of this act.

STEVENS T. MASON.

July 11, 1836

From *Journal of the House of Representatives*, pp. 295-305

Fellow citizens of the senate and house of representatives:

By virtue of an authority conferred by the constitution, I have convened you at this time, for the purpose of receiving the decision of the congress of the United States, on the application made by our senators and representatives for the admission of the state of Michigan as a

member of the federal Union. Although we possessed the best grounded hopes for an early admission, such has been the embarrassment thrown around our application, by questions foreign to the one at issue, that congress did not arrive at their final action on the subject until a late day of their session. The result of their deliberations has been, the passage of a law accepting, ratifying and confirming the constitution and state government formed for themselves by the people of Michigan, and admitting the state thus formed into the Union upon certain conditions therein expressed. This act, is herewith transmitted to you, for your more satisfactory information.

The act of congress which is submitted to you, is entitled "An act to establish the northern boundary line of the state of Ohio, and to provide for the admission of Michigan into the Union, on the conditions therein expressed." Section first declares, "that the northern boundary line of the state of Ohio shall be established at, and shall be a direct line drawn from the southerly extremity of lake Michigan to the most northerly cape of the Maumee bay, after the line, so drawn, shall intersect the eastern boundary line of the state of Indiana." This is the boundary line as has been claimed by Ohio in her dispute with Michigan, and is conclusive and final so far as the provision of this act extends; it is not affected by, nor made dependent on the conditions embraced within the third section of this act. An argument in illustration of this view of the subject, is rendered unnecessary however by the fact, that a distinct and separate bill has received the approval of the president of the United States, confirming to Ohio the district of country in contestation. Under this latter law, Ohio claims her title and jurisdiction, and that claim, so far as it is warranted by the validity of the law, is not affected by the acceptance or rejection of the conditions submitted to the people of Michigan in the act before you.

By the second section of the act providing for the admission of the state into the Union, it is ordained, *that the constitution and state government which the people of Michigan have formed for themselves, be, and the same is hereby, accepted, ratified, and confirmed*; and that the said state of Michigan shall be, and is hereby admitted into the Union upon an equal footing with the original states in all respects whatsoever: Provided, always, that *this admission* is upon the express condition, that the said state shall consist of and have jurisdiction over the territory included within the boundaries prescribed by congress and none other. Those boundaries yield to Ohio and Indiana, that portion of our southern border claimed by those two states, and annex to the state of Michigan a district of country embracing about twenty-

two thousand square miles, lying north and northwest of the Menominee river of Green bay, and the Montreal river of lake Superior.

In the third section it is provided, that as a compliance with the fundamental *condition of admission* contained in the last preceding section, the boundaries of the said state of Michigan, as in that section described, shall receive the assent of a convention of the people of the said state, for the sole purpose of giving the assent herein required;" and that as soon as the assent shall be given, the president of the United States shall announce the same by proclamation, and that upon his proclamation, the admission of the state into the Union, shall be complete without any further action on the part of congress. It will be here observed, that the condition referred to by congress, is a condition upon which the state is to be *admitted into the Union*, and that it does not affect the stability of the state government. The constitution formed by the people of Michigan having been accepted, ratified, and confirmed, their state government is irrevocably fixed and established. This is clearly shown by the fact, that the boundaries of the state as prescribed by congress, are, "*to receive the assent of a convention of the people of the said state.*"

The people of Michigan have thus placed before them, the conditions upon which they will be admitted into the federal Union. It is left for themselves to determine upon the alternatives submitted to them. With a constitution and state government framed for themselves, and accepted by congress they are to choose between submitting to an encroachment upon their compact rights, by a system of partial legislation, having for its object the aggrandizement of one portion of the Union at the expense of another, or resisting the encroachment at all hazards, carrying into full effect, at the same time, all the rights and privileges of a sovereign and independent state though excluded from the bonds of the confederacy.

Our duty, at present fellow citizens, is a limited one. In our official capacities, we have no concern with the acceptance or rejection of the conditions annexed to the terms of our admission; they have not been submitted by congress for our action, and we can certainly lay no claim to a right to judge for the people. All we can do is, to pass the necessary law required for sending them to our fellow citizens for their decision. The details of such a law are left to your judgment; they will readily occur to you, and I recommend its passage at as early a day as will meet your convenience.

I find it difficult fellow citizens, to suppress the feelings which are naturally excited upon this occasion, or to allude to this dismemberment of our territory in that respectful language, which is perhaps due to those at whose hands it has been affected. I feel as every citizen

of Michigan must feel, that the decision of congress has been made in violation of every principle of justice, and that to censure where it is due is the prerogative of the people, that the result of their labor is but the triumph of might over right, based upon considerations of temporary expediency; and that the stamp of its legitimacy, is to be wrung from the unwilling assent of a patriotic and highminded people. In fact the question of right between the parties has been avowedly disregarded by congress, and their action placed upon the exclusive ground of expediency;—thus establishing a precedent which must work evil of the utmost magnitude to our civil institutions, and which if persisted in whenever individual or sectional interest may demand it, will convert a land of laws into the most oppressive and worst of despotisms—a government of expediency.

The grounds upon which we have based our claim to the district of country in contestation with Ohio, have so often been brought before you, and are so fully understood, that it would prove unnecessary if not supererogatory here to recapitulate them. It is sufficient to state, that they are derived from the compact with Virginia of seventeen hundred and eighty-seven, and the act of congress of eighteen hundred and five, by which the people of Michigan had secured to them a separate government, with expressly defined and irrevocable boundaries. The claim of the state of Ohio, if it existed at all, must have been one set up by color of law arising from the conflicting legislation of the general government, and should have consequently been referred for adjustment to the judicial tribunals of the country. But congress have decreed otherwise, and have assumed to themselves exclusive jurisdiction over the subject; they decide that of right neither party can claim the territory in dispute, but that as a question of simple expediency it is given to Ohio. Such are the reasons upon which congress base a system of legislation vitally affecting the rights of a community, claiming, under a compact to which the United States were a party, and for the sacred fulfilment of which they have given the solemn guarantee of their faith.

However much the people of Michigan may doubt the power of the general government to alter the constitutional boundaries of their state, they would have yielded respect to their legislation from patriotic considerations, had congress been content with the simple exercise of that power. They would have declared as they now do, the legislation to be unconstitutional, but as citizens of the United States, they would have silently acquiesced in it, appealing to another tribunal for the peaceable and constitutional redress secured to them by the institutions of their country. But they are denied such an alternative, and are driven to other extremes—resistance or unqualified submission. We are told,

that we shall not question the proceedings of congress, and that unless we give our assent to a system of legislation which we believe to be oppressive, illegal, and unjust, we shall be denied the right of admission into the Union on an equal footing with the original states. Thus are we to be deprived of one right, unless we surrender another equally sacred, the right of an appeal to the federal judiciary; a right secured to the humblest individual, who may desire to approach a tribunal, framed to protect him against injustice and oppression, and intended to check the different departments of our government in the exercise of arbitrary and unconstitutional power.

If congress possess the power to alter our boundaries, and to annex the disputed territory to Ohio, then is the act which they have passed the supreme law of the land, any thing in the constitution of the state of Michigan to the contrary. By the second section of the fifth article of the federal constitution it is declared, that "this constitution, and the laws of the United States which shall be made in pursuance thereof shall be the supreme law of the land; and the judges of any state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding." What stronger security could be required by the state of Ohio for the protection of her rights than this, if the power which has been exercised by congress belongs to them? If the act of congress be passed in pursuance of the constitution of the United States, it is the supreme law of the land, and the judges of the courts of Michigan are bound to obey its provisions, "any thing in our state constitution to the contrary notwithstanding." I would ask then, if the sanction required of the people of Michigan to this legislation, does not imply a doubt on the part of congress, as to the constitutionality of their own act?

The power of congress over the question of our admission being confined to the simple inquiry—is the constitution and state government formed by the people of Michigan republican, it is their *duty* to have admitted the state into the Union, and have referred all incidental questions arising under the application, for adjudication before the judicial department of the government. The contrary course as pursued by them, evinces a determination to usurp powers belonging to another tribunal, and breaks down the barrier established by the constitution between the judicial and legislative branches of the government. Was it not enough that congress should assume the power of legislating from us a portion of our soil, without demanding from us the humiliation of adding our assent, to the measure of our wrongs? The right of questioning their proceedings, is secured to us by the constitution, and yet, we are required to bow in humble submission to a power we do not acknowledge, a wisdom we cannot fathom!

The resistance of the revolution was not a resistance of sanguinary tyranny alone, but a contest for unalienable rights trampled upon by a British parliament claiming to legislate for the people in all cases whatsoever. It was a revolution for principles; and when we recollect the succession of injuries which have been heaped upon the people of Michigan; when we review the respectful and pacific remonstrances with which we have alone so far opposed them; when we see that our complaints have not been heard, or if heard, have been answered with repeated and accumulated injury, it would seem to warn us, that the liberties of no people are safe, unless the government is sometimes taught they possess the spirit of resistance.

But, fellow citizens, there are other considerations vitally connected with the prosperity of the state, and involved in the subject before us, which should not be overlooked. We should be careful how far we suffer ourselves to be swayed alone by feelings, which however just and natural, ought not to usurp the exclusive direction of our councils. The question now at issue between the federal government and the state of Michigan is one involving the gravest considerations. It is acquiescence on the part of our people, or resolute and determined resistance. Are we not to hesitate before we make the latter choice? Is no sacrifice due to the character and welfare of the nation? Should we not count the cost of the contest we are to embark in, and should we not look to its consequences to ourselves and to others? Can we obtain from the fear of a future congress, what the justice of the last has denied us? Is there a hope of a remedy by which we can redress the injustice done us? But above all, are we ready to sacrifice local feelings and prejudices to the prosperity and tranquility of our country? If the array of force and terror which is held up before us, by others, cannot obtain from us obedience to the legislation of congress, will we not recognize in the controversy the image of the nation's honor, which forbids violence and resistance?

Fellow citizens, to maintain unimpaired the integrity of our Union, and to preserve unstained the institutions of our country, is one of the first duties of every citizen. Will we hazard these stakes now, or will we present to the world an example of compromise of opinion and feeling, dictated by a spirit of patriotic forbearance, even where injustice demands it. The federal government was the great work of a spirit of compromise, and it is only by the exercise of the same spirit by the states, that it is to be perpetuated. Without this, its fall must inevitably come. The sacrifice we may make, will not perhaps arrest the approach of such an event, but we may derive consolation from the reflection that it is possibly procrastinated.

I trust my fellow citizens will credit me when I declare, that no

one can feel more deeply than myself the humiliation of the sacrifice we are called upon to make. The preservation of the integrity of our territorial limits, has always been the highest object of my ambition. The boundaries claimed by us are our right, secured by an instrument as binding and sacred as the wisdom of man could frame it; and could we now calculate upon maintaining those boundaries with any hope of success, it would be our duty still to hazard the undertaking. In that hope I cannot be sanguine. I indulge the reflection that I have shown heretofore, that no personal interests could govern me in my official conduct when the rights of those with whom I am identified demanded their sacrifice: and when I am reminded of the favor with which that sacrifice has been received by my fellow citizens, and how much I owe to it my present elevation, I should prove recreant to my own reputation, and an ingrate to the people, could I now advise an unnecessary abandonment of their cause. Were I to consult the first impulse prompted by the feelings which every citizen of Michigan must acknowledge, I might be led into a determination to resist the legislation of congress; but as a public officer called upon to discard excited feelings, and warned that the permanent interests of the state are not to be overlooked, I should violate my duty did I recommend to my fellow citizens to embark in a controversy, offering so little hope of gain, but the certainty of permanent loss and lasting injury to ourselves and to the nation.

It must be a subject of congratulation, however, with the people of Michigan, so far as their reputation was involved in the controversy of the past year to know, that they were on the side of the constitution and the laws; and that the decision of congress sustains them in the course they then pursued, whilst it fixes the seal of condemnation upon the proceedings of Ohio.

The state of Ohio claimed the district of country in contestation with Michigan by virtue of constitutional right, and attempted by her own legislation to extend over it an unauthorized jurisdiction. The reports of both houses of congress upon the subject, declare the legal jurisdiction to have been vested in Michigan at the period to which reference is made, but recommend that it should be surrendered to Ohio by special legislation. It is under this legislation of congress, that Ohio now assumes her jurisdiction. Will it not afford a subject of singular inquiry to the people of the United States, that a sovereign and independent member of the confederacy, demanding a constitutional right, should forget the high stand she had assumed, and sue for as a boon from congress, that which her public servants, under the solemn oath of their offices, had previously declared to be secured by her constitution. Has she not abandoned, not from patriotic and elevated

considerations of public good, but in the eager grasp of mercenary motives, the bold grounds upon which she based her claim and placed it before the nation? What a fall she has made from "her high and palmy state." Where is the chivalry of "*her million of freemen?*"

In the progress of the investigation of this subject, it may be well for us to consider, how far our situation may be analagous to that of the people of Missouri at the time they were admitted into the Union. Upon the formation of her constitution and state government, Missouri asserted and exercised all the reserved rights of an American state. The same rights are now guaranteed to Michigan; and if there heretofore existed doubts calculated to draw in question the independent character of her government, those doubts are removed by the legislation of congress, accepting and confirming her constitution. The conditions annexed to the admission of Missouri, is also similar in character to that which is urged upon the people of Michigan. The people of Missouri, in the mode prescribed by congress, gave their assent to the conditions of their admission, at the same time protesting against the constitutionality of the power exercised by the general government, and maintaining that their compliance with the letter of the act, did not, and could not, impair their constitutional rights. It may be therefore worthy the inquiry, how far the qualified assent of the people of Michigan, to the letter, of their conditional admission into the Union, would impair the force of their constitution, or preclude the right of a future prosecution of their claims.

Our duty then, fellow citizens, is to refer the subject to the only tribunal competent to determine it. That tribunal is the people. Their decision it is our duty to abide. That their rights have been violated, cannot be doubted; and it is for them to decide what course shall now be pursued. So far as I may be called upon to bear an humble lot, in carrying into full effect their decision, I can only say, that I will pursue their will, disregarding all other considerations. The highest obligations I acknowledge, are due to the people of Michigan, and whatever may be their action on this all important question, it shall receive my support. It is due, however, to our own character, if we refuse our assent to the proposition of congress, that we should not surrender our jurisdiction over the territory in dispute. If we are unwilling to comply with the conditions of the government of the United States, it would ill become us to permit any jurisdiction, to be wrested from us by Ohio. Should we make the result a civil strife, let it be a contest for principle, and let every citizen be prepared to participate freely in its consequences.

I have thus, fellow citizens, availed myself of the opportunity offered, to lay before you such views as have occurred to me at the moment

of presenting to you the leading object of your session. Subjects of minor importance requiring your attention, will be communicated by special messages. As the final decision of the question of admission into the Union, is to be given by a body elected for that purpose, it would perhaps have appeared indelicate if not presumptuous in me, to have suggested the adoption of any specific policy on the subject. I have therefore abstained from such a course. Relying upon the patriotism and intelligence of the people, I am content to submit the result to their action; and with an humble confidence in the supreme ruler of the universe, I implore Him to guide us to those measures which will lead to our lasting prosperity and happiness, and promote the permanent welfare of the union.

STEVENS T. MASON.

July 12, 1836

From *Journal of the Senate*, pp. 321-326

To the senate:

I received for my approval at your last session, a bill, entitled 'an act to incorporate the St. Clair and Grand River railroad company.' This bill not having received my signature, it is returned to the senate where it originated.

Against the measure itself, as proposed by the bill, I can have no objection to urge. On the contrary, it is a measure connected with the great internal improvements of the state, and I should have derived infinite satisfaction from giving my assent to it, could I have felt justified in so doing by a sense of public duty. The bill, however, reaching me, at the last hour previous to your adjournment, no opportunity was afforded for its examination; and embracing as it did, a project of more than usual magnitude, my assent to it, was necessarily withheld until the examination could be obtained. This consideration, derived additional force from the fact, that the bill, at one time, failed in the house of representatives, and was not finally carried, but with more than ordinary exertions, on the part of its friends. Under such circumstances, I could not be expected to add my approval to an act, the provisions of which, from the limited time offered, could not be tested by that careful scrutiny and investigation, which is demanded from every department of the government.

I may here add, as a general suggestion, that the public welfare might be promoted, should the legislature adopt some rule, under which, no act of incorporation should be presented to the executive on the last day of their session. Such a course if pursued, would secure deliberation in

our councils upon acts, requiring the utmost caution, and would prevent the adoption of unnecessary, if not, often, dangerous legislation. Under the present rule, acts of incorporation are suffered to accumulate on the tables of both houses, until the last day of the session, when they are forced through every stage of proceeding, and perhaps at the last moment of the session presented to the executive for his approval. This produces great embarrassment to that officer, and compels him blindly to give his assent to all measures which may come before him, or to withhold it, when it may sometimes prove detrimental to the public. A remedy should be extended to this evil, for no officer under an oath to discharge his duties with fidelity, can fail to feel its embarrassing effects.

There were however, considerations connected with the bill before me, that should furnish insurmountable objections to the passage of like acts of incorporations, under similar circumstances. A grant of corporate powers to private companies for the construction of railroads through the unsettled and unsold lands of the state, struck me as of doubtful policy; the wants of the public could not absolutely demand the measure; and the time was not distant, when the state could with greater security to the interests of the people, take improvement into its own hands. Neither did it occur to me as politic, that a company incorporated for a specific public object, should be permitted to engage, either directly or indirectly, in the purchase of public lands for purposes of private speculation. The effect would be, if permitted, to retard the settlement of the country, as the actual settler would occupy the land, otherwise monopolized, by the concentrated wealth of an incorporated company.

It has been urged, as a justification of the purchase of lands by the company, that their increased value in contemplation of the construction of the railroad, would aid in the facility of its completion. This argument I cannot recognize as legitimate. I would ask, if it has not at all times been considered, that the usual advantages and profits accruing from charters like the one before me, are sufficiently great to induce the undertaking contemplated by the company incorporated, without the temptation of extraneous gain. If the public require the passage of such a bill as the one I return to you, let it be properly guarded, and let the state then, lend every aid to the completion of the work, intended by those who ask this charter. The public good should be the end in view, not private interests, for the evils we are to experience from the speculation in lands by individuals and private companies, will I fear prove sufficiently onerous to the state, without the encouragement and support of legislative enactments.

By an examination of the details of the bill, it will be perceived, that

sixteen years are given for the completion, and three years for the commencement of the railroad by the company. The periods of time here granted, are certainly too long, and cannot be found necessary, if the road, is an improvement demanded by the interests of the public.—No company, should ever receive such an indulgence, as that, which is here proposed.

I would be far from imputing unworthy motives to those who are immediately interested in the passage of this bill; but it is our duty to legislate with a view to the prevention of an abuse of power, into whatever hands the charter may fall. This charter may be granted, at the suggestion of worthy men, who intend to carry on the proposed work in good faith; but it must not be forgotten, that the stockholders whoever they may be, will direct the affairs of the company, and that a majority of the stockholders, may be non-residents, over whom public opinion here, will exercise but a limited control, in opposition to their interests. Limited to not less than three years for the commencement of the work, we offer a dangerous temptation to those, who might be disposed to abuse the trust confided to them. It is true the company are to commence the road within three years; but the word 'commence,' is an indefinite term. A commencement of the road, may mean a simple breaking of the ground;—and as no portion of it is required to be completed within a less period than six years, a dangerous opportunity is here offered for speculations upon the nominal value given to the lands purchased by the company, who may abandon their charter without penalty, at the expiration of this time, and who may not have expended on the contemplated improvement one dollar of their stock subscribed.

These profits from the lands of the company, must be taken from the pockets of the people, who are to be the actual settlers of the country. I would respectfully ask then, if even a direct tax, levied for the construction of the road, would not be more equal and less oppressive, than this tax upon the actual settlers on the line of the contemplated railroad; it would certainly retard less, the immediate settlement of the country. It is useless to say, that an appeal should not be made to our fears, for experience teaches us, that the interests of all incorporated companies, are generally at war with the interests of the people, and that the legislature cannot be too cautious in guarding against the abuse of powers, which when once conferred are not to be recalled.

A bill with proper restrictions, having in view the construction of the contemplated railroad, might, and should probably be passed by the legislature.—I would therefore suggest, for the greater safety of the public, that the stockholders of the company incorporated, should at the time of subscribing their stock, be required to pay into the treasury of said company a certain per centum of the stock subscribed, and the

remainder of their subscription in different annual instalments; which stock so paid in, should be secured by bond, and should insure to the state for the completion of the railroad, in the event of the forfeiture of their charter by the company. Again, I would prohibit the company, either directly or indirectly becoming interested in the purchase of the public lands for purposes of speculation.

I have heretofore suggested, and it is generally acknowledged, that in great works of internal improvement to be constructed by incorporated companies, the state should exercise and maintain a controlling influence over the proceedings of the company incorporated. In the bill returned to you, the state is authorized to subscribe a number of shares to the stock of the railroad, not exceeding three thousand;—but it will be perceived, that the force of this provision is destroyed, by a requirement of the legislature, to increase the shares and stock of said company, if demanded by the stockholders, to the amount of the sum taken by the state.—Thus may the influence of the state, as a stockholder in the company, be at any time neutralized, if the purposes of the private stockholders should require it.

In the present bill, I find no limit to the tariff of tolls which the company are authorized to levy upon transportations on the road; and I would respectfully suggest, if it would not be desirable in all charters of railroad companies, that the state should reserve the right to limit the tolls to a reasonable and liberal per centum on capital invested, at least to such an extent as to prevent at a future day, extortion from the public. Other states have already felt the oppression resulting from a want of this power, and I consider the subject worthy of your consideration.

The bill is returned to the senate for such improvements as their wisdom may suggest. I shall consider it my duty to acquiesce in their decision.

STEVENS T. MASON.

July 13, 1836

From *Journal of the House of Representatives*, pp. 327-328

To the House of Representatives:

At the last session of the legislature, an act was passed, reviving, and authorizing the executive to confirm the seat of justice in the county of Van Buren as located by commissioners in the year eig[h]teen hundred and thirty-three. Previous however, to the passage of this law, commissioners had been appointed to locate the seat of justice of said county, under the general act providing for the location of seats of

justice, and had entered upon the duties of their offices. The result of their labors, has been the location of the seat of justice of the said county, at a point different from the location of the year eighteen hundred and thirty-three; in consequence of which I am compelled to refer the reports in both cases to the legislature, with a recommendation that the question be determined by law.

I avail myself of the opportunity now offered, to transmit to both houses the copy of an act of congress approved May 26, 1834, by which the preemption right to one quarter section of land, is secured to each of the counties in the states and territories of the United States for county purposes. I would suggest the propriety of dividing the state into counties in order to receive as far as practicable the benefit of this act; and to authorize by law the proper authorities of each county in the state, to carry its provisions into effect.

STEVENS T. MASON.

1837

January 2, 1837

From *Journal of the House of Representatives*, pp. 5-25

Fellow citizens of the Senate, and House of Representatives:

On the annual assemblage of the representatives of the people, I am again required to review the affairs of the commonwealth, and in obedience to the express injunction of the constitution, to recommend to the legislature such matters as are expedient and essential to its permanent welfare and prosperity.

In taking a retrospect of the past year, we find much cause for congratulation. The tide of emigration is rapidly extending its course to the remotest borders of the state; unprecedented health has blessed the habitations of the people; abundant harvests have crowned the exertions of the agriculturist; our cities and villages are thronging with an active and enterprizing population; and notwithstanding the embarrassments which have surrounded us in our relations to the federal Union, social order has been preserved, and the majesty of the law has been supreme. Such are the advantages which have been secured to us during the past year, and we should not overlook the gratitude due the High Source from whose bounty they have arisen, and through whose providence and power they are to continue.

I wish it were in my power, fellow-citizens, to communicate to you as my first duty, the honorable and favorable accommodation of our difficulties with the general government. That duty I trust, however, is postponed to no distant day. The convention which assembled under the act of July the twenty-fifth, eighteen hundred and thirty-six, and to whom was submitted the proposition of the congress of the United States, refused to accede to the proposed terms of admission of the state into the Union. A subsequent convention of the people, assembled without the sanction of the legislative or executive agency, have nevertheless given the assent required by the act of congress as a prerequisite to our admission, reserving at the same time to the people of Michigan, all their rights under the constitution of the United States, and protesting against the constitutionality of the power exercised by the federal government. It does not perhaps become me at this time, and in my present place, to deliberate upon the validity of the proceedings of this convention. It is sufficient for me to state, that it emanated with and from the exclusive source of all political power; that it had its origin in that declaration of your constitution which asserts, that government is instituted for the benefit, protection and security of the

governed; that it recognizes the greatest good of the greatest number as the vital principle of the social compact, and that its authority is the deliberate will of the people.

I am unauthorized to say in what light the authorities of the United States will view the assent given by this convention. Whether it will be considered a compliance with the requisition of the act of congress, or not, I am unable to state. Nothing official has been received that would justify a conclusion on this point. Neither have I been able to indulge a reasonable hope that congress will remove the obstacle to our admission by a repeal of the obnoxious provision of their law, and permit the unconditional admission of the state into the Union, as she is in justice and by right entitled.

My views of the rights of Michigan under the ordinance of seventeen hundred and eighty-seven, as repeatedly expressed to the legislature, remain unaltered and unalterable. In the question of our admission into the Union, I would yield to the general government nothing as a matter of right, unless their claim of power was clearly pointed out by the constitution and laws of the country. I protest against the constitutionality of an act of congress prescribing any condition to the admission of a state into the federal Union. The states themselves and the judiciary are the only tribunals competent to take cognizance of conflicting claims of boundaries between states. But it is needless for us to theorize longer upon abstract principles of right. We are compelled to view things as *they are*, and not as *they should be*. At one period of the controversy the legislation of congress was with us. It is now against us, and we must respect it. We therefore spend a bootless grief by delaying our admission into the Union, and I deem it your duty to extend every aid in your power, by which an object so desirable may be most certainly accomplished. The interests of your constituents demand this at your hands; a sound and prudent policy dictates it.

The people of Michigan it is true, with an unanimity seldom if ever equalled, deny to congress the right of attaching any condition whatsoever to their admission into the Union. The power has however been exercised, and admitting the wrong, who will point out the remedy? An appeal to the supreme judicial tribunal of the country is denied us until a state of the Union, and if the right could be acknowledged to us, we cannot exist as a state independent of that Union. Whatever brilliancy our increasing prosperity may exhibit, it is but a reflected light of a confederated republic.

Then, fellow-citizens, what course is there left for us to pursue? But one, and that a patriotic obedience to the will of the people of the United States. We have our views in regard to the constitutionality of the power exercised by congress, it is true; but we must not forget

that we constitute but a small fraction of the thirteen millions of people, who by their representatives have given this decision against us, and that their views are perhaps in their minds, entitled to equal consideration with our own. We can only judge the future by the past, and we cannot therefore reasonably expect the present or a future congress to annul the solemn enactment of their predecessors. We have no additional argument to offer, for argument has been exhausted. We have petitioned; we have remonstrated; but all has been in vain.

Yet there is, fellow-citizens, perhaps a remedy left us, which tyranny may drive a people to adopt. It is the natural right of resistance to oppression inherent in every community; it is the *ultimo ratio* of a desperate and oppressed people, whose edict must be written in blood. But have we reached that degree of oppression where resistance to authority becomes a virtue? I will not, fellow-citizens, offer an indignity to your understandings and feelings, by an answer to such an interrogatory. I feel that as American citizens we should cherish the tender ties of a common descent, and recollect that our federal Union was the off-spring of the great achievements, the common perils, and common triumphs of the fathers of the republic. We recognize in the government of the United States the representative head of that Union; we acknowledge it to be the guardian of the constitution, authorized and bound to enforce its laws; and although we have felt the heavy hand of its injustice, we will neither resist nor revile that parental authority, but rather, like the sons of old with averted faces, conceal with a garment a parent's nakedness.

The period has arrived when Michigan can no longer, without detriment to her standing and importance as a state, delay the action necessary for the development of her vast resources of wealth. Nature has bestowed upon us the highest advantages of climate, a fertile soil, and peculiar facilities for commerce; and with a prudent and wise forecast to be exercised by the legislature and the people, we cannot fail soon to reach that high destiny which awaits us. I proceed, therefore, to the consideration of the general affairs of the state, and shall call your attention to such subjects as seem to demand immediate legislative action.

The annual reports of the Auditor General and Treasurer will be transmitted to you. Our revenue system is as yet imperfect, and I would most respectfully suggest a careful review and digest of the laws providing for the collecting of state, county and township taxes. Some mode should be provided by which the assessments of taxes could be made more equal in the different counties and townships. Under the present system of taxation, the disparity in many cases has become so

great, as almost to destroy everything like an equality in the apportionment of this part of the public burdens. The unexpended balance in the state treasury on the first day of the present year, as exhibited by the treasurer's report, was \$27,130,68-100. The current expenditures for the ordinary purposes of the government for the year 1836, were \$50,301,26-100. As yet no state tax has been collected and paid into the treasury. The act of March the 12th, 1836, levying a tax for state purposes, has not been as fully carried into effect by the supervisors of the several counties, as might have been expected. Every effort has however been made to remedy the neglect, and to secure a prompt fulfilment of the provisions of the law by the first of March next. The revenue derived from this source will, it is thought, be ample for all the current demands of the state during the present year. Economy in the expenditures of the government must, however, be substituted for taxation, and this can in no wise be so effectually accomplished as by a prompt discharge of their duties by the officers of the people.

Short sessions of the legislature, so far as is consistent with a due attention to the public interests, should be observed, and an avoidance of all extravagant and unnecessary expenditure is absolutely demanded by our constituents.

In the event that Michigan should receive on deposit that portion of the surplus revenue of the government of the United States, which is so justly due her under the act of congress, it will become your duty to provide by law for its safe and prudent disposition. By the provisions of the law, that portion of this revenue which will probably be assigned to Michigan, becomes a deposit with the state, liable to recall in whole or in part whenever the wants of the general government may demand it. The faith of the state is pledged for its return, and it does not become us under these circumstances to calculate upon the chances of this demand never being made.

It is our duty to be prepared to perform our part of the agreement in good faith, and for this purpose two modes are suggested, by which the state may at any time command the funds necessary to enable her to meet the requisition of the general government when required.

First, I would suggest for consideration the propriety of authorizing the executive by the passage of a law for that purpose, to issue a state stock, upon which the necessary funds to meet a call by the authorities of the United States for any portion of this surplus, may be readily realized. The call when made, by a provision of the act of congress, must be preceded by due notice, which would enable the state to meet the emergency by a sale of her stock. The second mode suggested, and the one which I deem preferable, is, that the whole amount of revenue received from the United States be loaned on good security to such

banks or other institutions as the legislature may designate, subject to recall by the state in whole or in part at such periods as would meet the demands of the general government. The interest accruing to the state on these deposits, might be appropriated to the current expenses of the government, may be applied to such other purposes as the legislature may direct, or it may be constituted a sinking fund for the redemption and payment of interest on such loans as the state may hereafter contract for internal improvements or other purposes.

In compliance with a joint resolution of the Senate and House of Representatives, I have submitted to each railroad company within the state, the proposition of transferring to the state their respective charters. As yet the Detroit and St. Joseph and the St. Clair and Romeo railroad companies, have alone responded to the proposal of this resolution. The president of the first named company has communicated to me their decision, informing me that the company will readily surrender to the state their stock, upon the repayment of the sums advanced, under such an arrangement as will secure the completion of the work within a reasonable period.

This proposition is a liberal one, and the importance of the contemplated improvement is such as should induce its prompt acceptance by the state. The latter company will surrender their charter on condition that the state will pay to them the sums which shall have been expended at the time the transfer shall be required, and that the state engage to complete the road within six years from the first of January next, to some point on Lake Michigan or Grand river. If, however, the legislature should determine not to receive the exclusive charge of public works of the above character, I would again suggest that the state take such an amount of stock in the chief routes which have or may be ordered, as will secure to the people a controlling influence over them. The importance of this suggestion, if not admitted now, will be acknowledged hereafter, when all the great avenues of the state are found in the hands of private companies.

In my last annual communication to the legislature, I endeavored to urge upon their consideration the importance of maturing without delay, a permanent and judicious system for the direction of our internal improvements. The constitution enjoins this duty upon you, and I earnestly commend it to your most serious attention. The first measure to be adopted in carrying into successful effect this branch of our state policy, is the immediate organization of a board of internal improvement. Under the direction of this board, the surveys essential in legislating safely with reference to contemplated works of improvement, should be made during the present year, so that at the next session of the legislature, measures may be adopted for the immediate

commencement of such canals, railroads or other public works as may then be sanctioned and designated. Competent engineers should be employed under the direction of the state board, and without the evidence of their estimates and investigation, no important work of improvement should ever be ordered by the legislature. If this plan is not adopted, the state will be constantly liable to the heavy charge of extravagant, unprofitable and useless expenditures. The state is amply competent to the construction of her own internal improvements, and by a wise and economical expenditure of the means which may be placed in your hands, you may in a great measure supercede the necessity of placing all those resources of wealth in the hands of private companies. Whilst every section of the state is equally entitled to your liberal and encouraging legislation, I may be permitted to suggest several surveys, which may be ordered during your present session. The practicability of uniting the waters of Lake Michigan with those of the eastern part of the state has been long conceded. It is impossible, however, without previous surveys, to determine which is the most practicable of the many routes which have been suggested. In casting a glance over the map of the state, different communications will readily occur to you as seemingly practicable. The head-waters of the Grand river flowing into Lake Michigan, it is believed, might be connected with the waters flowing into Lake Huron or the Black river of St. Clair; and I am credibly informed that a canal fourteen miles in length would unite the head-waters of the Looking Glass river with the head-waters or tributaries of the Shiawassee: Again, it may be found upon survey that this communication may be continued by canal to the Detroit river, or down the Shiawassee, to the mouth of the Saginaw; the Huron it is thought may be connected with the Red Cedar; and the Raisin with the head-waters of the St. Joseph or Kalamazoo. These surveys can be made, and then the legislature may select for construction one route or more, if found practicable, or if justified by the means of the state. In the event, however, that sufficient water for canal purposes cannot be obtained at the summit level between Lake Michigan and Lake Erie, the state will be compelled to direct all her energies and resources to the construction of rail and Macadamized roads, or roads laid with wood, and to the improvement of the navigation of her inland streams.

In relation to the immense annexation of country which has been made to the state, north and west of Lake Michigan, it becomes necessary that we should adopt some measure by which the acquisition may be rendered valuable. The value of the fisheries and other objects of trade and commerce on Lake Superior, will, I am confident, yet exceed the expectations of the most sanguine of our citizens; and

it only needs a communication for our shipping around the falls of the St. Mary's river, to enable us to realize those expectations. This work should, however, be considered essentially national, and I would therefore suggest, that you memorialize congress for an appropriation for the construction of a ship canal from the outlet of the lake to a point on the river below the falls. The distance between the two points will not, it is thought, exceed one mile; and the expenditure of one hundred thousand dollars in the construction of this canal, would be so trifling a matter when compared with advantages growing out of it, that we should not lose sight of the importance of making it a state improvement, in the event that the government of the United States should refuse the necessary appropriation for its completion.

Numerous applications for charters will be made to you at your present session, for the construction of railroads in different sections of the state. I feel it my duty as the executive officer of the government to give my sanction to all applications of this character, however much I may doubt the expediency of too great an extension of chartered privileges, whenever I am satisfied that the public and not private interests, are the objects of the application. In assuming this rule of conduct, I shall not fail at the same time to keep before me the fact that railroads are only of advantage to the great body of the people, where they tend to increase the value of the products of agriculture and the demand for labor. These results are only to be expected from such railroads as open a market for produce, by supplying better and cheaper facilities of transportation to such parts of the state as were in a measure before deprived of them. I am led to these suggestions from the circumstance that all applications for railroad charters are apt to be too readily granted, whether running from one section of the state to another, from village to village, or from neighborhood to neighborhood. The result of this course of legislation, if persevered in, must be that the common roads of the country will become neglected and forgotten, will be rendered unfit for the ordinary purposes of travel, and the farmer must ultimately be dependent on private companies for the transportation of his produce, upon such terms and at such prices as individual interests may dictate.

So manifestly important and essential to the permanent interest and prosperity of the state, is the immediate perfection of a system of internal improvements, that I deem it unnecessary to urge the subject more fully upon your attention. In the first commencement of our public works, we must necessarily rely upon foreign loans for the immediate means of carrying them into effect. I would therefore recommend the adoption at your present session of such measures as may be required in the negotiation of such a loan as is demanded by

the objects which we have in view. A loan of five millions of dollars, to be drawn as wanted, it is thought would be sufficient to accomplish all the important public improvements demanded by the state for the present; and that economy may be considered as misjudged, which, for the sake of avoiding an immediate advance of money, would subject the community to inconveniences and evils a hundred fold greater than the benefits to be derived from procrastination.

The Superintendent of Public Instruction will report to you a system for the government of the University of Michigan, and for the organization of the primary schools of the state. For the details of these systems, I refer you to the report, which I commend to your most earnest consideration. I cannot, however, dismiss the subject of education, without endeavoring to impress upon your minds the truth, that in it is embraced the most vital interests of the country, and that no object within the province of your legislation should demand so important a portion of your time and attention.

The state fund for the support of common schools, with a prudent husbandry, will equal our utmost wants. The University of Michigan will also possess an endowment which will enable the state to place that institution upon an elevation of character and standing equal to that of any similar institution in the Union. I would therefore recommend the immediate location of the University, and at the same time the adoption of a system for its government, as well as a system for the government of your primary schools.

In the organization of your common schools, which are the foundation upon which your whole system of education must be based, the first measure essential to their success and good government, is the appointment of teachers of the highest character, both moral and intellectual. Liberal salaries should be allowed the instructor; and without this you may rest assured you must fail in your object; as individuals in all respects competent to the charge of your schools, will be excluded from them by the parsimoniousness of their compensation. Let me also suggest that you adopt a permanent and uniform standard of works to be used in the schools; and that in the studies selected, they may to as great an extent as practicable embrace the useful and practical information of life. Let your youth be taught the first principles in morals, of science and of government, commencing their study in the primary schools, elevating its grades as you approach the district seminary, and continue its progress until you reach the highest seat in your University. By this system your children will acquire practical knowledge for after life, and have instilled in their minds at an early day their duties as citizens, and above all, their obligations to the Searching Power of another world.

In contemplating the past and dwelling upon the future, we are forcibly reminded that if our government is to outlive the term heretofore allotted to republics, it is to be accomplished by the diffusion of knowledge amongst the people; and that we must depend upon the power of a liberal and enlightened public "as the palladium of a free government, the aegis of our federal existence." Let us not suppose that we are beyond the calamities which have befallen other nations. Man is the same now as he ever has been, subject to like passions and governed by the same impulses.

Republican Greece and Rome, as they increased in opulence and luxury, resigned themselves to those vices which they despised under the simplicity of their early institutions. Can we feel exempt from the effects of like influence? Have we not departed from the simplicity and purity of the early days of the republic? Are we not found, as the last of the fathers of the revolution are descending to their tombs, calculating the chances of our Union; and are we not endangered by the servile imitation of the customs of the old world? To arrest this devastation of republican feelings and principles, guard the education of the rising generation. Teach them in their earliest lessons of life, the great principles upon which their government was founded, and keep before their minds those scenes of our country, which are richest in harvest of American glory, and which have chiefly contributed to immortalize the American name.

His honor the Chief Justice will report for adoption at your present session, a revised code of laws, prepared agreeably to the instructions of your predecessors. I refer you, however, to his communication, which will be transmitted to you, for the reasons urged by him in support of an extension of the time originally allowed for the preparation of the report. In a work of so great magnitude as the digest of a code of laws for the government of a state, it is impossible for a single individual to complete the undertaking with that degree of perfection that would be satisfactory to himself or best promote the interests of the public. The shortest period ordinarily allowed for the completion of similar revisions, has been from two to four years. I would therefore recommend an extension of time in the present instance. The Chief Justice is, however, prepared with such a digest, as the necessary attention to his other duties, and his limited time for its preparation would allow, and asks your early decision on the subject.

Should you, however, proceed to the adoption of a code of laws at your present session, I may be permitted to suggest the importance of simplifying your judicial proceedings as far as may be practicable, and of clearly defining by statute all criminal offences and their penalties. Every member of society, however humble, should comprehend

what duties he is enjoined by the law to discharge, every act that he is prohibited from committing, the penalty for a violation of its injunctions, and the proceedings and forms by which he is to be adjudged.

That portion of your jurisprudence, which provides for the adjudication of private wrongs, is not perhaps so easily regulated. It may be considered impossible to embrace within the narrow precincts of your code all civil cases and their remedies; but approach it as nearly as possible. And in the progress of your labors on the subject, you should adopt the rule laid down by a distinguished and learned jurist, and sanction no theory, by whatever specious argument supported, until convinced of its practical utility; admit nothing upon the mere authority of a high name; make no unnecessary innovation, but boldly propose every change that may be necessary or useful.

Connected with the revision of the laws, no subject merits more seriously the attention of the legislator and philanthropist, than that of imprisonment for debt. The system is a time honored relic of barbarism, and has only been permitted to remain upon your statute book through the claims of its antiquity. The right of personal liberty makes so permanent a feature in the first principles of a free government, that its security should never be endangered, except on considerations of the highest magnitude. The fraudulent debtor, who is morally a criminal, should be made to feel the penalty of offended justice; but under your present system, the victim of misfortune is classed with the criminal and subject to the same indiscriminate punishment.

The test of experience has long since shown that imprisonment for debt as at present established in most of the states, has failed in its object. The fraudulent debtor escapes unpunished, while the poor but honest man alone feels the oppression of the system. Offer the creditor if necessary the most peremptory process against property, which is the legitimate object of the law; provide for the punishment of fraud; but protect inviolate the liberty of the unoffending citizen. If imprisonment for debt is abolished, you will soon find substituted in its stead wholesome and effectual collection laws; mutual confidence will become the guarantee of trade, and our country will be relieved from one of the darkest stains upon its character.

The age in which we live is said to be the harbinger of improvement in our moral and social relations. We are engaged in efforts for bettering the condition of man in other climes; we are wailing over the lost liberties of a race exclusively within the control of others, and yet forget that at our own threshold rests the ready instrument of injustice and oppression.

It may be said that the moral sense of the public will protect the

unfortunate debtor from oppression. Will you accept this guarantee and cease all efforts of philanthropy, which the present day is making? Trust not frail mortality with discretionary power over the liberties of his fellow man, for the lessons of life teach us that the moral sense of the community is sometimes a false security for misfortune. Your system of imprisonment for debt may be considered to be at war with the spirit of a free government; and I would therefore recommend its total abolition. Blot it from your code of laws, and enable Michigan to commence her career as a state of the confederacy, the advocate and supporter of a liberal and enlightened legislation.

I find by reference to the notices of applications to be made to you for legislation at your present session, that you will be called upon to legislate extensively upon applications for bank charters. This subject involves the currency of the country, and cannot be regarded with too much interest and care. The question involved in all legislation upon this subject is one of simple expediency, and the responsibilities involved, in a great measure rest upon the legislature. The executive officer, strictly construing his veto power, should confine its exercise to constitutional questions, unless it be in flagrant cases where facts come before him which have been withheld from the knowledge of the legislature. Questions of expediency as a general rule should be left to the immediate representatives of the people. The country, it is true, is laboring at present under an unprecedented pressure in the money market. But it is a mistaken idea that extensive issues of bank paper will remove this evil. Banks are rather the effect than the cause of the prosperity of a state. They may afford facilities in trade, but they are not the foundation of the public wealth. The wealth of the state has a deeper source; it springs from the agricultural industry of the country; it emanates from the labor of the people. The cause of the existing pressure does not arise so much from the want of banking capital in the country, as from an unnatural state of trade, produced by the wild and reckless spirit of speculation which has overrun the land, and has withdrawn capital from its usual channel. This capital must return to the channels where it properly belongs, before entire relief to the community can be experienced; and as it is generally invested in real estate, this return will be found to be gradual in its operation. A wise and prudent economy, accompanied by a cessation from extravagant speculations, can alone restore a proper tone of trade, and relieve the embarrassments of the country. Without this, a multiplication of banks and bank papers will but increase the evil.

In relation to the applications which you may deem proper to grant, I would respectfully suggest the utmost caution in framing your charters, so that the public may be protected from the losses inevitably to

be occasioned by a depreciated circulating medium. We have before us a striking instance of the consequences of incautious legislation on this subject. We see a railroad company, chartered for a special purpose, issuing evidences of debt in the shape of bank paper, contrary to the evident intent of the legislature, but by virtue of a charter negligently guarded. The effects of this legislation are, that the country may be flooded with a paper which carries with it no assurances of redemption at the will of the holder, and the tendency of which is to depreciate abroad the whole circulating medium of the state. I allude to the notes of the River Raisin and Lake Erie railroad company, and without any disposition to reflect on the high character and standing of its present directors, I leave it to the legislature, if they possess such a power, to take the subject in hand and provide a remedy for the evil. My objections are not to men; they are directed against the powers and privileges assumed, and at present exercised by the company.

Whilst legislating on this subject, we must recollect that bank notes are not money, but merely its representative. Gold and silver are the basis of our currency, and when your bank notes are not convertible into this medium at the will of the holder, they must depreciate in value. Without the ability of the banks to redeem their notes at the pleasure of the holder, and the power with the state to compel it, or to stop their circulation, your circulating medium must be inevitably a bad one. No confidence in the ultimate solvency of the institution, will prevent the depreciation of its paper, where this ability with the bank power on the part of the state does not exist. It is not alone sufficient that the confidence in your banks should exist at home, it must exist abroad, and their paper must answer the purposes of exchanges with other states. Your merchant, in his commercial relations with New York, or elsewhere, must be enabled to use the paper of your state banks, or be able, if necessary, to convert it readily into the circulating medium of the state to which it is sent. Every guard should therefore be thrown around your bank charters, which may have a tendency to satisfy the public mind of the solvency of the institutions and of their ability to redeem their paper at the will of the holder.

Gold and silver being the basis of your currency, it is important to keep within the state, as far as may be practicable, an extensive metallic circulating medium. It is impossible, and perhaps not to be desired, that a metallic circulating medium should be altogether substituted for bank paper. The measure, however, should be at least partially carried into effect, so as to prevent a constant fluctuation in the value of bank notes, which are the representative of metallic currency, and which will rise and fall in value in proportion to the scarcity or abundance of the precious metals. With this consideration in view, I submit to you the

policy of prohibiting the circulation of bank notes of a less denomination than five dollars. The tendency of such a measure would be to withdraw from the circulating medium of the country the small notes with which it is now cloyed, and substitute in their stead a substantial metallic currency possessing an intrinsic value.

The recent pecuniary embarrassments of the country have produced strong reasons to doubt the wisdom and policy of our existing usury laws. The interference of the government between citizen and citizen, dictating the rate of interest at which one shall lend and the other borrow money, can but be regarded as an unnecessary and needless restraint upon the freedom of trade. The rates of the money market, like all others, should be left to the regulation of the existing demand. As well might the government regulate and restrain the prices upon the produce of agriculture, or the labor of the mechanic, as the rate of interest upon the loans of the capitalist. Remove all needless restraints upon the freedom of trade, and the value of money, like the value of every other article connected with the commercial relations of the country, will sink to the level created by the demand or supplies of the market.

But what are the practical effects of your usury laws? You have but to look upon the passing events of the day to satisfy your minds that they are constantly and readily violated and avoided. The only consequence of their existence is that they increase the demand for money and consequently the rate of interest, by the exclusion of foreign capital from the state; for no individual will send his capital where the rate of legal interest is limited, when he may invest it in loans to greater advantage elsewhere. Through such restraints, instead of protecting the citizen, you place him at the mercy of the usurer, by destroying the competition which would be created in the money market by the introduction of foreign capital. No political axiom is more sound, than that competition is the best and only true regulator of trade. I think then a limited investigation of the subject will satisfy you that the existing laws regulating the rate of interest upon individual contracts, are not only unnecessary but injurious to the public prosperity.

It again becomes my duty to call the attention of the legislature to the absolute importance of erecting without delay a penitentiary adequate to the necessities of society. This institution should be at once located; funds should be provided for the construction of the necessary buildings, and a superintendent should be appointed to take charge of the work. The system for its government should be carefully matured. The legitimate intention of the law in the restraint of personal liberty, is the reformation of the offender, and the salutary warning which his fate may afford to others.

To meet this object of the law is the great utility of a penitentiary system, under judicious and salutary regulations. Punishment should never be more severe than is necessary for the correction of the offences to which they are applied, and it is therefore important that different modes of treatment should be adopted for different grades of offences. The minor offender should be separate from those of a higher degree of guilt, for an indiscriminate intercourse between the prisoners, will not fail to reduce the whole in moral principle to the same standard with the most abandoned. Solitary confinement must be adopted with all who are convicted of offences of a grave and heinous character; every effort should be exerted to elevate the morals and principles of the convict; the ignorant amongst the younger class should be taught the rudiments of a common education, and all classes should be required to adopt some useful trade. By these means the philanthropic intentions of the law may possibly be carried into effect, and crime be in a measure disarmed of its numerous allies in the unreformed offenders, who are annually discharged from our state prisons.

Complaints are frequently made of the difficulties attending the execution of criminal process, from the indisposition of ministerial officers to discharge those duties with the uncertain and limited compensation which is now provided by law. The duties of those officers in criminal cases, are of the most arduous character; and I would respectfully suggest such an amendment of the law, as will secure them a fair and adequate compensation for the services rendered.

Among the many objects entitled to your consideration, I submit the importance of ordering at as early a day as practicable a geological survey of the state. There can be no doubt that Michigan abounds in minerals of the richest quality, and it can only be through the means of geology that this source of our wealth can be fully developed. As yet the situations in which are to be found our metallic ores, beds of coal, gypsum, granite, limestone and other valuable minerals, are in a great measure concealed. A geological survey will bring them to light. It will also afford the agriculturists a knowledge of their soils, and assist them in correcting those which possess an undue proportion of mineral elements unfavorable to agriculture; it will enable us to supply our own market with important articles of commerce and trade, and will in the end furnish us resources which must constitute an important part of the permanent wealth of the state. The unexpected and valuable results which have been obtained by other states from their recent geological surveys, when considered, will, I feel confident, secure to the subject that attention which its importance demands.

The third section of the fourth article of the constitution, makes it the duty of the legislature to provide for an enumeration of the

inhabitants of the state during the present year; and it further provides that after such enumeration, the legislature shall apportion anew the representatives and senators among the several counties and districts, according to the number of their white population. The necessary measures for this enumeration should be provided at your present session, so as to enable the proper officers to make their returns at an early day previous to an adjourned session, which must be held for the purpose of making the apportionment of representation, according to the provisions of the constitution.

The experience of each additional day urges the importance of a removal of the northwestern Indians to some quarter, where they will be no longer molested by the encroachments of the whites. The policy of the federal government has heretofore been to locate them in a district of country south of the Missouri, set apart for their uses, and secured to them upon the faith of the nation. The utmost exertions of the Indian department have not however been able to induce the tribes of our own immediate region to consent to an acceptance of this location. This unwillingness on their part to emigrate to a southern climate, seems to be the only obstacle to a negotiation, by which Michigan might be relieved from their occupancy of a valuable portion of her soil, and a negotiation likewise which in its results would effectually protect the rights of the Indians themselves, and preserve from extinction the comparatively small remnant of a people, which the hand of degeneracy has yet spared.

It is ascertained, however, that the entire removal of the tribes within our own limits, and in all probability those of Wisconsin, might be easily secured, were they permitted to emigrate to a country of a more northern latitude than the one heretofore designated by the government as their future abode. With the object of their emigration in view, the district of country north of the Falls of St. Anthony has attracted the attention of the Indians, and it is believed that if the United States would permit this change in their destination, no obstacle would remain to obtaining their speedy removal. That northern region possesses many recommendations over the south, to the Indian of our latitude. The climate is more congenial to his habits and approaches in character more nearly to that which he is compelled to abandon. It is likewise no small consideration with him, that he will be placed as it were in the midst of kindred tribes, when compared with those who occupy the southern country. With the federal government itself, there are also considerations connected with this subject which should not be overlooked. The concentration at one point of the numerous Indian tribes that will undoubtedly be sooner or later removed from

their present locations, is placing the frontiers of Arkansas and Missouri within the very grasp of a power where hostility to the whites must be constantly breaking forth. Their contiguity to each other, will enable them at any time and with a short notice to strike a fatal blow at the southwest, before the federal government can be prepared to resist it. With these views of the subject, I cannot hesitate to recommend that you memorialize the congress of the United States at their present session, placing before them all the considerations which should induce an acquiescence in the prejudices and feelings of the northwestern Indians, by setting apart a district of country north of the Falls of St. Anthony, to which they may be readily removed.

I deem it my duty to call your attention to the necessity of a more efficient organization of the militia of the state. Our militia system, as it is now permitted to remain, is worse than valueless, and indeed is but a mockery upon the design of the framers of the law. Too little importance is generally attached to this branch of our state polity. The genius of our institutions will not permit a reliance upon the permanent existence of a large standing army. In the event of war, our government must look for the armor of her defence in the ready action of a brave and disciplined militia. We cannot expect to be forever exempt from the perils and calamities of war. Our country has met them heretofore, and may experience them again, and the lessons of the early campaigns of our last struggle with Great Britain, teach us what sacrifices of blood and treasure the want of discipline in an army must cost us when brought into the active field.

The first essential feature in the improvement of your system must be to secure perfect discipline, and complete drills amongst the officers. If your officers understand their duties, they can soon exert a favorable influence over their men. You must then by law require your commissioned and non-commissioned company officers to be frequently and thoroughly drilled; and for the purpose of securing their attention to this duty, pay them a fair compensation for the time thus withdrawn from their private pursuits. With this attention to the character and qualifications of the officers, you cannot fail soon to possess a well disciplined militia; without it, the attempt to an organization might as well be abandoned.

In conclusion, fellow-citizens, permit me to invoke union and harmony in your councils. Let me entreat you to banish from your deliberations all party spirit and sectional feelings; and to exert your whole efforts for the honor and welfare of your constituents. Sensible as I am of the importance of despatch in the discharge of the multifarious duties committed to your charge, and satisfied of the inconveniences resulting from a prolonged session of the legislature, it

only remains for me to assure you of the fidelity and alacrity with which I shall co-operate with you in the accomplishment of every measure conducive to the happiness and prosperity of the people of Michigan.

STEVENS T. MASON.

January 30, 1837

From *Journal of the House of Representatives*, pp. 159-160

To the Senate and House of Representatives:

I transmit for the consideration of the legislature, the remonstrance of the pre-emption claimants on the Niles reservation, asserting their title to lands which have been selected by the state for state purposes, under the act of July 25, 1836. The remonstrance seems to be intended for the action of the Executive, but as his power over the subject was exhausted so soon as the lands were selected by him for the state, the whole matter is referred to the legislature for their consideration.

The claimants set forth fully in their remonstrance, and the accompanying document addressed to the President of the United States the grounds upon which their right to the pre-emption of these lands is based. With this, however, the state of Michigan can have no concern, as it is a question exclusively within the province of the federal government to determine upon the validity of those claims.

I have endeavored to give the subject submitted by the claimants, a careful investigation; and with every desire to lend my aid in protecting the rights of the actual settler, I have been unable to determine upon any course of procedure, which could at present be adopted, without jeopardizing the claims of the state to the lands in question, as well as those of the individual claimants themselves.

It is true, the state might with the approbation of the Secretary of the Treasury of the United States, release her claims to these lands; but were this done, the rights of the pre-emption claimants would only be placed in a more hazardous condition by the procedure.

Their claims are now before the government of the United States for confirmation, and should it be determined that they are valid, the claim of the state, under her location, must of course become void. The selections of the state have not as yet been confirmed, and in all probability will not, until a final disposition is made of the conflicting individual claims to the same lands.

Should the pre-emption claims be rejected, the selections of the state will and should be confirmed. It is far better for the interests

of the individual claimants, in the event of failure in securing their possessions, that the state should become the proprietor of the lands, than that they should be brought into market and made a contested object of purchase between speculators. If the lands in question should, under a sale by the government of the United States, become the property of individual purchasers, the pre-emption claimant can expect no relief; with the state he would have an equitable claim to payment for his improvements; a claim which the state, I am satisfied, would not feel disposed to disregard. With this view of the subject, it is submitted to the legislature to adopt such measures as their better judgment may suggest.

STEVENS T. MASON.

February 7, 1837

From *Journal of the House of Representatives*, pp. 188-189

To the Senate and House of Representatives:

I conceive it my duty to inform the Senate and House of Representatives, that the first installment under the act of Congress providing for the deposit of the surplus revenue of the United States, amounting to ninety-five thousand three hundred and eighty-three dollars eighty-three cents, has been received by the Treasurer of the state, and is now subject to the direction of the legislature. I would refer you to my annual message at the commencement of your present session, for the considerations which urge that this fund should be kept distinct from the ordinary receipts of the treasury; and as it remains at present unproductive to the state, I would respectfully suggest, that such measures be adopted as will enable the state to make it at once a source of revenue. The whole amount due the state under the act of Congress, is three hundred and eighty-one thousand five hundred and thirty-five dollars thirty-one cents, as stated in the communication of the Secretary of the Treasury of the United States.

The five per cent. fund on the sales of public lands, which by the terms of the grant is to be exclusively appropriated to the construction of roads and canals, has not as yet been received, but I am advised that it will be transmitted at an early day.

STEVENS T. MASON.

March 21, 1837

From *Journal of the House of Representatives*, p. 400

To the House of Representatives:

I return to the House, in which it originated, a bill entitled "An act to incorporate the Grand Rapids bridge company," which has not received my approval. At this late period of your session, I am not permitted to state at large my objections to this bill. I therefore, for the purpose of securing its passage, return it, with my opinion, that the *exclusive privilege* contained in the sixth section is unconstitutional, and respectfully request that the objection may be removed, before the bill receives my signature.

STEVENS T. MASON.

June 12, 1837

From *Journal of the House of Representatives*, (Extra Session),
pp. 428-434

Fellow Citizens of the Senate, and House of Representatives:

You have been called together at this time, in consequence of the existence of the financial and commercial embarrassments which at present disturb the tranquility of the nation. Happily the people of our own state have not, as yet, felt these embarrassments so heavily, as those of other portions of the Union. But as the recent measures adopted in the Atlantic states, cannot fail to operate oppressively upon the western country, unless promptly met, I have, with a desire to protect the citizens of Michigan, conceived it my duty to consult you, and ask your counsel and co-operation in the endeavor to avert the calamity. I feel confident that this co-operation will be readily extended to me; and however great the inconvenience resulting to you personally, by your convocation at this season of the year, and at so early a day after the close of an arduous session, I am assured they will weigh little with you, when balanced with the welfare of the state, and the prosperity of those who have placed their interests in your keeping.

The present crisis in the moneyed affairs of the country, is such as should bring us to a pause, and induce us well to reflect upon the causes which have led to it. It should teach us, although we may learn the lesson of wisdom by sad experience, to avoid in future, the seductive career of apparent, but unreal prosperity, which the nation has lately pursued, and which has brought us ultimately to the very verge of general bankruptcy. Let us seek out the true sources from whence these evils have arisen, and henceforth avoid them; bearing in mind, that like

causes if hereafter sanctioned by the people, must again bring about the very like calamitous results which we now deplore.

By the universal consent of all nations, gold and silver has been made the currency and standard of value with the great commercial world. But the scarcity of these metals has compelled most governments of extensive trade and commerce, to create a representative currency to answer the immediate purposes of domestic exchanges. In the United States, this representative is composed of the paper issues of authorized banking associations, having a metallic basis created and pledged for its redemption. The notes of these associations are received at home in all exchanges, and constitute the far greater portion of the circulating medium of the country. But, as a general rule, in the exchange and commercial intercourse with foreign nations, the ordinary bank issues fail to answer the demands of trade, and resort must be had to gold and silver, or the products of labor through the medium of exportation.

The debt owed by one nation to another, cannot be paid but with *real effects*, either in coin or commodities. Where both these sources fail, pecuniary embarrassments must fall upon the nation, against which the balance of trade exists, and the debt created can only be cancelled by bankruptcy. These are the first principles of commercial relations; are applicable to nearly all nations, and are as invariable in their operation as the laws of nature.

We may trace, however, in a very great extent, all our present pecuniary embarrassments to one fatal error into which the country has fallen. That error is to be found in our system of overbanking. The excess of bank facilities and bank issues, has made the *representative* of money too abundant, and has consequently brought in its train the evils of our overtrading and speculation; the augmentation of prices already high, increased and unwarrantable investments in unproductive lands, and foreign imports beyond the wants or means of the nation. It is admitted that the great enterprise of the American people demands, in a greater or less degree, a paper currency, the precious metals not being sufficiently abundant to answer all the ends of the circulating medium required by the multifarious interests of a wide-extended and constantly increasing country. But this paper medium must be limited, and should be restricted in its circulation, so as not to exceed in too great an amount the metallic basis which it is made partly to represent.

What are the effects of excessive bank issues upon a community, as proclaimed by the simplest principles of political economy? They are, the depreciation of bank paper, an increase of the price of all commodities, an extension of excessive credits, the neglect of productive labor, and a country involved in debt. The banks are called upon for specie to pay the debt of the country; their specie will not meet their

outstanding issues; confidence is shaken; runs are made upon them; they are compelled to contract their loans and call in their discounts, and a general pressure, if not bankruptcy, are the inevitable results that follow. The condition of the United States at the present time is a perfect illustration of those principles. The recorded history of the different states show millions of an increase of bank facilities; money, or rather its representative, has been abundant; credits have been unparalleled; our land offices tell of a dead capital of millions buried in unproductive lands; our custom-houses, deducting profits, freight, and difference of valuation, present a balance of trade against us of millions by importation; our circulating medium has depreciated, or which is the same thing, every other exchangeable commodity has risen, and Europe has exhibited the strange phenomena of underselling us on our own shores in the exportation of her bread stuffs to America. A revulsion now begins. * Our debt must be paid to Europe. The banks of the Atlantic cities are unable to furnish sufficient gold or silver on their issues to meet the demand; runs are made upon them, and the result has been a universal pressure and a general suspension of specie payments, in order to prevent as general a bankruptcy.

It may be inquired, what remedy has the country left by which she may be relieved from her present embarrassment? I answer, by a gradual diminution and absorption of her bank issues; a curtailment of her too extended trade; a cessation from mad investments of capital in unproductive lands; a resort to frugality, and an application to honest industry. For years past, we have been forcing importations and other departments of business, too far in advance of the productive labor of the country. The nation that falls into this error, must, sooner or later, experience a revulsion. We must now produce commodities to make up the balance of trade against us, and the price of those commodities must fall until no other nation can compete with us in the great market of the commercial world. In a few years our productive labor will bring back the money which must leave the country in payment of debts; for the laws of trade will take it where the debt is owed, and any attempt to prevent it will prove as powerless as the command of that feeble monarch who sat upon the beach and forbade the ebbing and flowing of the tide.

But, fellow citizens, let me direct your attention to the immediate question which requires your consideration. You are doubtless aware, that the banks of the Atlantic and southern states, under a most unprecedented demand for the redemption of their notes, have been compelled to suspend specie payments, and that in New York the proceeding has been sanctioned by the legislature of that state. Circumstances justify the conclusion, that this policy will be adopted by most of the states

of the Union. The intimate financial and commercial relations existing between New York and Michigan, have induced the banks of this state, as a measure of self-protection, to avail themselves of a provision of their charters, and to suspend specie payments likewise. You are now called upon to sanction this procedure, for the purpose of preserving to our own citizens a circulating medium during the suspension in New York and elsewhere.

I feel gratified in being able to assure the public, that from an investigation of the Bank Commissioner, recently instituted, I have the utmost confidence in the solvency of the banks of the state, and I refer you to his report accompanying this communication as a warrant for this conviction. It is nevertheless but just, however, that they should be protected from an unusual and unexpected drain upon their specie, in consequence of the privileges which have been extended to the banks of New York. The expediency of the measure as adopted by that state, may, perhaps, well be questioned; and it may be doubted whether the embarrassments of the country should not have been left to seek their correction in the natural results which always follow a state of over-trading. The work, however, has been begun; a suspension of specie payments for one year has been authorized by a powerful neighboring state, and the question is, can Michigan, without injustice to herself, attempt to withstand the current which is every where flowing around her.

Admitting the ability of the banks to redeem their notes in circulation, can we dispense with a circulating medium of our own, for the twelve months to come? There is not at present, sufficient gold and silver to answer the purposes of an exclusive metallic currency, and we must from necessity depend in part upon the issues of our own banks. If the banks of this state are compelled peremptorily to redeem their notes during the general suspension in other states, they must unavoidably call in their circulation and cease all accommodations to the community, as their notes if issued would immediately run back upon them for redemption, in consequence of specie bearing a premium abroad. The banks then of this state, if required to resume specie payments before the resumption in New York, must for self-preservation stop the entire circulation of their notes. Or, on the other hand, they may be tempted to avail themselves of a doubtful provision of their charters, and by resuming specie payments, temporarily at the expiration of every sixty and thirty days, flood the country with their paper, which from its then excess of circulation, would still further depreciate in value. The doubtful power too, here exercised, would also aid in depreciating the circulating medium of the state, from the fact, that it might be considered as working a forfeiture of their charters. The resumption of specie payments then

with this excess of depreciated paper in the country, would be disastrous in its consequences, if not impracticable.

As the only alternative, although a deplorable and hazardous one, I would recommend the passage of a law, exempting all the banks reported as safe and solvent by the Bank Commissioner, for one year, or until the resumption of specie payments in New York and other states, from the liabilities of a forfeiture of charter for declining to pay specie on their notes. A law to this effect, would avoid the constitutional question of impairing the obligation of contract, and would leave the bill-holder his remedy at law against the bank, should he choose to adopt it.

Should you deem the passage of such an act requisite, its provisions, however, should be rigidly scrutinized and strictly guarded, so that the public may feel a perfect confidence in the ultimate redemption of the issues of the banks. In the first place, I would suggest, that the law should be made applicable to the safety fund banks, and such others, as within a limited period come within the provisions of the "Act to create a fund for the benefit of the creditors of certain moneyed corporations, and for other purposes;" and also that the banks be required to receive on deposit and in payment of debts due from *individuals* the notes of each other. These provisions, if adopted, will give uniformity to the circulating medium, and prevent any one bank from discrediting the bills of another. Each bank should be compelled also, if practicable, to retain its specie now on hand, and to exhibit periodically to the Bank Commissioner the fact that it is still continued in their vaults, with the exception of such sums, as they may voluntarily choose from time to time, to pay out in redemption of their notes, or for other authorized purposes. The great object to be desired, is to prevent the banks from selling their specie at a premium, and you should by your act, visit upon every such institution thus disposing of its specie, the severest penalties, together with the forfeiture of charter.

It is highly desirable, likewise, that the banks should be restricted in their issues to such an amount, as will answer the reasonable wants of the public, without suffering them to expand their circulation to such an extent, as would retard the resumption of specie payments, a measure highly demanded by the interests and character of the country. And in order to secure a rigid enforcement of the provisions of this law, I would recommend such an amendment to your present statute, as will clothe the Bank Commissioner and Chancellor with unrestricted authority to close by injunction any institution found violating the rules and restrictions you may prescribe for them.

With such a law as I have suggested, it seems to me, that we cannot fail to be insured a circulating medium commanding the confidence of

the public. If the banks are restrained from selling their specie, if they are made to curtail by degrees their issues, and to receive the notes of each other on deposit and in payment of debts due from *individuals*, it follows, that their present circulation will be gradually absorbed; that the debts of the community will speedily diminish, and that the consequences to be apprehended from the attempt hereafter to resume specie payments, will be in some measure avoided. This, together with a fertile soil, economy, and the industry of an enterprising population, must unquestionably secure to Michigan a continuation of her present real and unprecedented prosperity. Her career may be retarded, but can never be arrested; and if she pause, it is but to renew her onward march with redoubled energy and vigor.

I may here, fellow citizens, suggest in concluding this communication, that the great interest attending the approaching session of the Congress of the United States, may render it highly desirable that Michigan should be represented in both its branches. Your attention is therefore called to the propriety of ordering an election of a member to the House of Representatives, at an earlier day than is now provided by law.

With the confident expectation, that your wisdom will supply the defects of any recommendations of my own, you have the assurance of my hearty co-operation in the accomplishment of any measure calculated to protect or promote the interests of the people of Michigan.

STEVENS T. MASON.

June 13, 1837

From *Journal of the House of Representatives*, p. 600

To the Speaker of the House of Representatives:

Sir—As a member of the board of Regents of the University of Michigan, I have been instructed to ask of the legislature the following amendments to the act providing for the government of that institution:

1. An amendment to the act so as to invest the board of Regents with power to elect the chancellor, and prescribe his duties.
2. To amend the act so as to make the Governor of the state president of the board, and in his absence to authorize the Regents to elect a president pro. tem.
3. To invest the board with power to create such professorships in the university as they may deem proper, and to establish branches at their discretion.

The first amendment requested is asked in consideration of the fact,

that the board of Regents are satisfied from the information they have received, that it was the intention of the legislature to confer upon them the power of electing the chancellor of the university, and as a necessary consequence, that they should have the authority to prescribe his duties.

They have been induced to ask the second amendment from suggestions which have occurred to them in the course of their deliberations upon the form of government best adapted to the success of the institution.

The third amendment is desired for the purpose of enabling the Regents to exercise a sound discretion in multiplying professorships and establishing branches as rapidly as the interest of the university will demand or its funds permit.

At present no such power can be exercised without an appeal to the legislature, and it is thought it will readily occur to that body that the Regents might be with safety vested with an authority which must be controlled by contingencies, and which will be guided by the interests of the public in its execution.

I have to request, sir, that you will submit these suggestions to the body over which you preside, and respectfully to ask their sanction of them at as early a date as practicable, the board of Regents having been compelled to suspend their deliberations until such amendments are made to the law organizing the University of Michigan, as are here suggested.

I have the honor to be

Your ob't servant,

STEVENS T. MASON.

Committee on part of the Regents.

1838

January 2, 1838

From *Documents accompanying the Journal of the House of Representatives*, pp. 563-567

Fellow citizens of the Senate, and of the House of Representatives:

I appear before you in obedience to your summons, to enter on the duties assigned me by the people of Michigan. Called again by them to the station of chief executive magistrate of the state, I embrace the opportunity to convey to them my cordial thanks for this distinguished testimony of their continued confidence and approbation; and to assure them of my determination to realize their just expectations of the future, by an anxious fidelity to the trust confided in me.

When assuming the charge of this office on a former occasion, I declared the principles on which I should endeavor to administer the affairs of the state. I feel that I have exerted myself to act according to the promise then given. However great the censure to which I may at times have been subjected, my conscience tells me that I have not willingly jeopardized the interests of my constituents, nor knowingly violated the strictest rules of duty.—That I may have committed errors, I do not pretend to doubt; but I can truly say, they have not been errors of intention. The elevation of the character of the state; the advancement of her local policy; and a judicious and efficient execution of her laws, have been the constant and highest objects of my ambition. If I have failed in my exertions, I sincerely regret it; and my only justification will be found in the misdirection of an over-anxious but erring judgment.

But if my connexion with the executive government of the state has been attended with no distinguished benefit to the public, I may at least flatter myself that it has been productive of no lasting injury. It will be recollected, that during the first year of my administration, the peculiar position of Michigan in her relations to the federal Union, prevented the complete and effectual organization of her state government, at as early a day as would have been desirable; so that whatever measures of a general public character may have resulted from the joint efforts of the executive and legislature, they have been the labor of the past season. The progress of our works of internal improvement, the encouragement given to the cause of education, the revision of our code of laws, and the general development of the resources

of the state, would indicate, however, that the exertions of these two branches of the government have not been unattended with some little success.

But I do not desire to arrogate to myself the origin or success of either of the measures to which I have adverted. Whatever credit belongs to them, I yield to those of my fellow citizens who urged their adoption and to their representatives here, who have sustained them with so much zeal and fidelity. Contented if I have been at all instrumental in the advancement of objects so vitally important to the people of Michigan, I urge no claim to consideration.

If, under existing circumstances, fellow citizens, I should feel a distrust of my own ability, when the suffrages of an enlightened people had confided to me the important functions of the first office in their gift, how much greater must that distrust be when I reflect on the cares that are now before me. The experience of my past term has but served to convince me of the difficulties I have to contend against. The resources of the state are rapidly increasing; the objects to be embraced within executive supervision are constantly multiplying; and all the responsibilities and duties of the station are assuming so grave a character, that the ablest and most experienced officer might well expect to find himself often exposed to the severest censure. What, then, must my anxiety be, sensible, as I am, that I am wanting in that high estimate with the public which would give favor and consideration to my opinions and measures? But the magnitude and difficulty of the trust shall not induce me to shrink from the responsibility. Relying on the favorable disposition and direction of the co-ordinate branches of the government, I assume the charge assigned me; asking for my errors the indulgence of my fellow citizens, in the motives by which I shall be actuated, and trusting that I shall be judged with the same liberality they have so often extended to me.

On resuming again the duties of chief executive magistrate of the state, I unhesitatingly pledge my exertions to the support of the important public measures already undertaken by your predecessors. Much of their success, however, depends on the aid I shall receive from the legislative department of the government; for I must rely, always, greatly on your counsel and exertions, fellow citizens, in the accomplishment of every object conducive to the public welfare. Nothing shall be wanting on my part to assist your legislative labors. To your judgment I shall pay the utmost deference; and when reaching me under the sanction of the organic law of the land, I shall never hesitate in carrying that judgment into execution. In all things I shall endeavor to cultivate that harmony and amenity which should ever exist between the different departments of the government; yielding to the

legislature all their just prerogatives, but at the same time determinedly repelling the slightest encroachment on the powers of the executive, as conferred by the constitution.

Within the sphere of my own department, and in all my official relations, I shall exert myself to be governed by the strictest principles of justice. No dread of responsibility, no personal obligation, no local prejudice or sectional feeling, shall sway me from the course of my oath of office will point out. I shall assert the equal right of all classes of my fellow citizens; I shall oppose all partial and special legislation; I shall maintain, as far as practicable, exemption from taxation, and urge an economical expenditure of the public moneys; I shall be the friend of internal improvements, of the advancement of science, and of the diffusion of education; I shall favor, by all authorized means, improvements in agriculture and in manufactures; I shall defend the freedom of the press, freedom of speech, and freedom of religious opinion; I shall endeavor to exhibit a just interest for the public morals, and a due regard for the great truths of our holy religion, but shall firmly resist that species of religious intolerance which the world too often exhibits, and under which mankind have so often suffered; which would, if left to itself, seek to make converts by fire and sword, pervert a religion of love into a religion of terrors, and would seem to worship God the Avenger rather than God the Father.

The conflict through which we have just passed, has been characterized by a warmth and bitterness of feeling, unusual, if not unknown to our infant state. All of us, fellow citizens, have partaken more or less of this excitement. The public press kindled the flame, and its devastation has reached every dwelling within our borders. Whilst a public officer should not be too callous to assaults upon his reputation, it is also true, that he should not be too sensitive. His public measures and official acts belong to the public, are always before them, and they will judge them fairly and correctly. And even when his integrity has been assailed, the vilest and worst of motives attributed to his conduct, he has only to await the development of time, trust to the good sense and justice of the people, and they will right the wrong done him. Although many of you, fellow citizens, may have suffered in feeling by illiberal imputations upon your private character, yet, rely upon it, you can receive no lasting injury from a warfare so unfair. By your presence here, you bear with you the highest testimony, that your constituents distrust your accusers. The majesty and power of truth have prevailed, and the libel uttered has recoiled on the head of the libeller. Let us, then, banish from our deliberations the passions that have so recently been excited; let us approach the sacred duty to which we are called, forgetting the past; let us recollect the ground on which we stand is

holy, and that this hall should be made the arena of no political champion.

And if the public press has been abused, who would attempt to check it in the exercise of its freest license! The old world and the advocate of power may point to our country for a profligate press; but the very evil denounced proclaims the liberty of the people. What value has individual fame when balanced with public freedom? Far better that the aspirant for ambition's highest crown, should sink the victim of falsehood and detraction, than that the slightest obstacle should stifle the bold and daring voice who would declare his country's danger. The freedom of the press is a home-bred right, an ancient and sacred prerogative of the people. It is a check upon public men, teaching them the great political truth from which our institutions derive their force, that government is intended for the benefit of the governed, and that authority is but a trust, delegated for the public good. Let no one, then, either by legal restraint or through means of violence, attempt the reformation of the abuses of the press. "Freedom of discussion, unaided by power, is sufficient for the protection and propagation of truth."

We meet on this occasion, fellow citizens, impressed I trust, not only with a conviction of the claims our own state has upon our services, but also mindful of the obligations we owe to the federal Union. Michigan has her influence in the direction of public sentiment. In her present position she constitutes a fair and striking portion of the proud and mighty republic we inhabit. We are all American citizens. We have but one country. Every section of the Union should be the same to us. The glorious achievements of Massachusetts belong to South Carolina and Georgia, and the daring chivalry of Carolina and Georgia should be the just boast of New England. Our government and our institutions were the offspring of their common sufferings and their common triumphs. Let us, then, cherish the union of the states; let us discountenance and reject every appeal to sectional feelings or local prejudices; let us avoid the unnecessary agitation of every question calculated to array one portion of our country against another. An ardent attachment to the Union, I believe to be interwoven with every generous impulse of the people of Michigan; their patriotism cannot be limited by the confines and boundaries of a single state, but is as it should be, co-extensive with the republic itself. They, I trust, will voluntarily sanction no measure calculated to weaken the sacred ties which bind us together as a nation. Then why do we hear angry discussions between brethren of the same great political family? Why do we permit the value of the Union to be questioned? Why do we listen to contracted and selfish calculations of the balance of power between the

north and the south? Do American citizens already begin to distrust and fear each other? If so, it forebodes little good to our Union: it tells lightly for the patriotism of the present day.—Did the fathers of the republic yield to such narrow views? No: they acted for their whole country; they thought and felt for America: they fought for American liberty. And shall it be said that their struggles have been in vain; that their example has been lost on us; that we are forgetful of the invaluable legacy committed to our care; and that our Union, the last hope of the oppressed of every nation, shall be lost through our own degeneracy and folly? No, fellow citizens: cling to Michigan, but live and act for your country—YOUR WHOLE COUNTRY.

With these sentiments, and with an earnest supplication to the Supreme Ruler of nations, that He will spread his protection over our Union, protect our institutions, prosper our labors, and guide our councils, I proceed to that solemn qualification prescribed for me by the constitution.

STEVENS T. MASON.

January 4, 1838

From *Journal of the House of Representatives*, pp. 13-34

Fellow Citizens of the Senate and of the House of Representatives:

On your assembling to perform the important duties committed to you by the people of Michigan, I am called on in obedience to an injunction of the constitution, to submit to you the condition of the affairs of the state. In obeying this mandate, I avail myself of the opportunity, to congratulate you on the general enviable condition in which we find our beloved country. Whilst it becomes us to reflect on the calamities, which, arising from the pecuniary embarrassments of the commercial world, have visited many of our fellow citizens, and to sympathize with their sufferings, we have yet abundant reasons to return our acknowledgments to the Supreme Ruler of nations for a liberal participation in the ordinary blessings of his providence.

Another year has rolled around. We find our country at peace with all the powers of the earth, and free from domestic violence; her fame extending, and her high character acknowledged and respected throughout the habitable globe. At home, the blessings of health have never been more universal; the labor of the husbandman has never been crowned with more abundant harvests; the interior view of the state presents the most striking proofs of substantial and increasing prosperity; and our vacant territory is rapidly becoming the abode of an

enterprising and industrious population, characterized by an independent and daring spirit, educated in a love of order, habituated to self-government, and valuing its privileges above all price. All these pleasing circumstances are subjects of congratulation, and demand from us our gratitude, as they mark the goodness of that Being from whose favor and bounty they flow.

It is to be hoped that the crisis in the pecuniary embarrassments of the country has now passed, and that the return of the approaching season of business will restore to us our usual state of activity and prosperity. However much we may lament the individual suffering we have witnessed, we can yet, if we choose, draw salutary lessons from the past. That an unnatural and forced condition of trade has existed in the United States for several years past, none can deny. Over-banking, over-trading, and neglect of productive labor, are the prolific sources from which have flowed all the evils we have experienced. But a gradual extinguishment of our debt to Europe, the reduction of an over-extended trade, the curtailment of excessive credits, the gradual suppression of unlimited issues of bank paper, together with abundant harvests, and an increased attention to productive labor, all promise, and must insure a return to more prosperous times, and give health and vigor to the present prostrate finances of the nation. The part which is mutually attributed to the general government and its agents, the deposit banks, in bringing about the present state of things, I consider it unnecessary here to discuss. Whilst my opinions on the great questions of public policy which now divide the nation, shall never be withheld at the proper time and place, I am unwilling to thrust them before the legislature of the state, where they could only have a tendency to excite feelings and discussions, calculated to thwart the business of your session, and impede the progress of the local interests committed to your charge.

And if, fellow citizens, the political excitement produced by the present condition of the country, has stimulated the public mind to a degree of fervor beyond all former example, this very excitement has furnished the most undeniable proof of the fitness of the American people for the rights of self-government. Whilst the countries of Europe under a similarly excited state, would have exhibited instances of popular violence, and perhaps bloodshed, no such calamities have marked the scene of our recent troubles. Although our government may have been shaken to its centre, the passions of political strife have beat against it in vain—showing no weather side to the storm, it stands erect, preserving social order, and maintaining the supremacy of the laws.

But although we may have nothing to fear for our government from external dangers, or open domestic violence, there is yet an insidious

and secret foe the American people should guard against; it is that imperceptible but all absorbing desire lurking in the heart of man, to aggrandize self and promote private ends; which is too apt to forget country, and which, if indulged and encouraged, must prove the undoubted cause of a premature national degeneracy. The history of other nations is before us, and let us profit by their fate. It has been well said, that it is not in a government of splendor and extended powers, that the American people are to seek and find happiness; but in a government of simplicity, of just and mild laws, and of defined and prescribed authority. With this conviction before us, we should keep constantly in view the great principles upon which our government was founded, guarding against the disunion of the states, but resisting firmly an equal if not greater evil, the consolidation of the government in the federal head, by the exercise of powers by Congress, not clearly and positively delegated by the constitution. We want a government that will confer continued freedom and lasting happiness upon the great body of the people. No temporary benefit, or present pecuniary interest, should seduce us to justify the slightest violation of the constitution, by sanctioning acts of the government not clearly and specifically authorized. If the doctrine of implication be once yielded, the limits to our federal constitution are gone; that instrument will then mean any thing or nothing, at the will of those who may be called on to construe and define its powers. One violation will justify another; precedent will establish precedent, until ultimately precedent becomes the law of the land.

The officer at the head of your financial department will submit to you a detailed exposition of the condition of the finances of this state. The receipts into the treasury, for the year ending the thirtieth of November, from taxation, amounted to forty-eight thousand nine hundred and sixty-nine dollars, eight-seven cents. The expenditures, during the same period, for the ordinary purposes of the government, exhibit a balance against the treasury of thirteen thousand three hundred and fifty-three dollars, sixty-eight cents. This condition of the treasury, although greatly to be regretted has been brought about by circumstances unavoidable, and beyond the control of the Executive. But this deficiency in the revenue may, in some measure, be accounted for, from the fact, that the delay or neglect of county officers in their payments into the treasury, exhibits, on the first day of December, a balance due the state, from different counties, of not less than eighteen thousand dollars. If this delay arises from a defect in the law, it becomes the legislature to remedy it; for, unless the correction is made, some portions of the state will contribute to the support of the government, while others are exempt from this burthen. The expenditures also embrace the

interest on the state loan, which must hereafter be specifically provided for; and have been otherwise greatly increased by repeatedly protracted, but unavoidable, sessions of the legislature. It cannot be expected, that a like charge will again fall upon the treasury, so that the existing provisions for the assessment of a revenue, together with a temporary arrangement with the fiscal agent of the state, it is hoped will enable the treasury to meet the current expenditures of the government for the present year.

But, fellow citizens, whilst to others is assigned the duty of collecting the public revenue, its safe keeping and its appropriation to the public wants, is confided to us. It behooves us, then, to exercise the most rigid economy in our expenditures. If any deficiency in the revenue has arisen from a wanton expenditure of the public money during the past year, we have the opportunity, and it is our duty, to make up that deficiency by the economy of our present term. Recollect, however, that whilst economy is the marked and striking virtue of a republic, it is as distinguishable from parsimony as profusion. Neither is it by profession or declamation, that we are to satisfy the people. A denunciation of salaries and salaried officers, that last resort of little minds, cannot alone give us favor with an enlightened public. The people are willing to award to public services a just compensation but require that our deliberations here, shall not be unnecessarily protracted. They demand from us prompt attention to their affairs, short sessions and economical expenditures; for we are not to forget, that it is the legislative department of the government, of all others, that necessarily draws most heavily upon our treasury.

It is with peculiar satisfaction, that I refer to the progress of our works of internal improvement. The board of public works will submit to you a detailed report of their labors, and a statement of the amount and character of their expenditures. The whole sum as yet placed to the credit of the internal improvement fund, amounts to four hundred and thirty-eight thousand, five hundred and fifty-one dollars, forty-nine cents. The expenditures, as stated on the first day of December last, were three hundred and twenty-two thousand, three hundred and twenty-one dollars, forty-two cents, leaving a balance to the credit of the fund, on that day, of one hundred and sixteen thousand, two hundred and thirty dollars, seven cents. In the amount of expenditures, is embraced the complete survey of the northern, southern and central railroads, the survey of the Havre branch road, the reconnoissance of the St. Joseph, Grand and Kalamazoo rivers, the survey of the Clinton, Saginaw and Sault de St. Marie canals, the construction of the road, purchase of materials and machinery on the route from Detroit to Ypsilanti, and the sum of one hundred and thirty-nine thousand eight

hundred and two dollars, seventy-nine cents, paid on account of the Detroit and St. Joseph railroad company.

The routes of these different railroads have been located under the direction of the board of internal improvement, but how advantageously to the state, it is left for the legislature to determine. That dissatisfaction will exist, arising from conflicting local interests, is to be expected; but should no different direction be given by the legislature, these works will be placed under contract with as little delay as practicable. These roads, when completed, will open a market for the rich and abundant resources of the interior of the state, and will form an important part of the great chain of internal improvements which is to connect the Atlantic seaboard with the valley of the Mississippi. The reports of the engineers engaged in the survey of the three northern canals, state the contemplated works to be practicable, and from their important bearing upon the permanent prosperity of the country, I recommend them to the favorable consideration of the legislature. The canal around the falls of the St. Marie river, it is ascertained, can be constructed for a sum not exceeding one hundred and fourteen thousand dollars. And as it is desirable to open, at an early day, through this communication, an outlet for the extensive and abundant resources of the country on the shores of Lake Superior, I would respectfully suggest such an appropriation as will authorize the completion of the work during the present year. The contemplated improvements in the navigation of the St. Joseph, Grand and Kalamazoo rivers, are also entitled to your attention. But I would refer you to the report of the board of internal improvements, which will be submitted to you without delay, for all the information you may desire on this important branch of our state policy.

Under the act of the legislature authorizing a loan of five millions of dollars for purposes of internal improvements, I have made such arrangements as will enable the state readily to command any portion of the amount to be loaned, as our wants may require it. Five hundred thousand dollars of stock, has been sold in the American market, at a premium of six per cent; the remainder has been thrown into the European market, under such an agreement as will insure its successful negotiation at any period that may be directed. Should a necessity exist for any additional funds before remittances may be received from Europe, I have entered into an arrangement in the city of New-York, by which the amount needed will be advanced on the loan. I have no idea, however, that this necessity will arise.

The great importance of a system of internal improvements to the eventual and permanent prosperity of the state, cannot be questioned; nor should the claims of any section of the country to a participation

in its advantages, be denied, when the works contemplated, offer the proper inducements for their construction. I have repeatedly urged my desire to see the state progress in the liberal and extended system she has founded; but I must express my doubts of the policy of encumbering our finances with any additional improvements to those already directed. The great avenues and communications of trade through the state, are now in the progress of completion by the public; and I submit the propriety of leaving, for the present at least, those of minor importance, to the exertions of individual enterprise. The loan already authorized for internal improvements, amounts to the sum of five millions of dollars, and it may be questioned, whether with the most rigid economy, that sum will be equal to the construction of works now undertaken. As the means of the state increase, and her resources are developed, we may turn our attention to a more extended system, if demanded by the people. For some time to come, our public works will prove but a limited source of revenue to the state; and as we are already borrowing money without providing available funds to meet the interest or principal on our loan, as it becomes due, I would most earnestly call your attention to that subject. It will never answer to think of relying upon direct taxation, for means to meet these obligations; and it is submitted to your consideration, whether the best interests of your constituents, do not demand the creation of a sinking fund out of the receipts derived from roads and canals, as they may arise, and from such other sources as may be under the control of the state, for the payment of the interest on our debt; and the ultimate redemption of the principal.

In the acceptance of the propositions from the Government of the United States, contained in the act supplementary to the act providing for the admission of Michigan into the Union, the legislature submitted to Congress, for their consideration, the proposition, "that five hundred thousand acres of unappropriated public lands be granted to the state for purposes of internal improvements within the peninsular counties; and "that there be granted for the construction of a road from the mouth of the Antonagon river of Lake Superior, to some point on Green Bay, one section of land for each mile." Also, "that all roads commenced by the United States within the state, and remaining unfinished, should be completed by them. This proposition is too reasonable in its character to need enforcing by any system of argument. The neighboring states of Ohio, Indiana and Illinois, have received repeated donations in land from Congress for roads and canals, and no reasonable objection can exist, why the same liberality should not be extended to Michigan. If we have heretofore petitioned Congress in vain, it is trusted that a sense of justice will render our present

demand successful. No western state has for years contributed more than Michigan to the revenue of the United States, and she now only asks even handed justice. I would therefore suggest, that our senators and representative be instructed to urge upon Congress the acceptance of this proposition.

The character of industry upon which the real prosperity of the state is most dependent, is the cultivation of the soil. Most nations have considered it their policy to encourage some particular branch of industry, as the one from which they could derive the most abundant resources of wealth. But whilst the true policy of a free government is to extend equal protection to every department of trade, we are too apt to overlook the interest of the agriculturist. Michigan, it is true, may and will exhibit an important field for successful domestic manufactures, but the cultivation of her soil must at all times be regarded as the great source of her prosperity. It furnishes, not only the means of human subsistence, but supplies materials for manufactures, as well as the chief resources of commerce. Whatever encouragement, therefore, we secure for the agricultural interests, extends a benefit to every other department of industry. Agriculture being, then, a primary and most important branch of state economy, it is the duty of the legislature, not only to protect its members from disproportionate burdens, but to facilitate to them the advantages derived from the researches of science, and the discoveries and improvements of the age. With this object in view, I would recommend the creation of a board or society, whose duty it would be to foster and encourage this great source of national prosperity and independence, to gather desirable information, and at the public expense, distribute it to the farmers of the state. Such a measure, I have no doubt, would in a short time be productive of important public consequences.

From the report of the Superintendent of Public Instruction, you will receive all the necessary information connected with our schools and universities. The amount of moneys received and paid into the school and university fund from the sales of public lands, he will submit to you; he will also present the general condition of the common schools which are under his immediate direction, and will at the same time suggest to your consideration such amendments to our existing school laws as may to him appear expedient and desirable. I would however recommend, by the appointment of an assistant, the separation of the financial department from the ordinary duties of the office of the Superintendent, so as to relieve that officer from duties at present too onerous, and in themselves inconsistent with each other. The Regents of the University have been assiduous in their attention to the important trust confided to their care, and have done towards promoting the success

of the institution all that their present limited means would permit. They have directed the immediate organization of four branches of the university, as preparatory departments for the main institution, at such points as seemed to them most conducive to the public good, and to the success of the branches themselves. These branches have been placed under the most salutary rules of government, a uniform and approved course of study has been adopted, and the principal of each institution, is required to possess that high character calculated to reflect honor upon the cause of education and the state. The branch at Pontiac is now in successful operation; those established at Detroit, Monroe and Kalamazoo, will be opened at an early day. The Regents have found it impossible to do much towards opening the main institution for the reception of students, the university fund being as yet unavailable. They have consequently, thus far, confined their exertions to the location of the institution, and to preparatory arrangements for the appointment of professors, the purchase of a cabinet of minerals, library and philosophical apparatus. It is their desire, however, to open the university proper, at Ann Arbor, for the reception of students, on the first Monday of September, of the present year.

I have so often referred to the subject of education in my former communications to the legislature, that, important as the subject is, I feel indisposed to dwell upon it at any great length here, sensible that your feelings and interests are alive to its success, and that your most unremitting exertions will be directed to its advancement throughout the state. Every free government is called on by a principle of self-preservation, to afford every facility for the education of its people. The liberty of a people cannot be forced beyond their intelligence; the two go hand in hand. The South American Republics exhibit but alternate scenes of anarchy and despotism; and France in the day of her bloody struggle for freedom, was overwhelmed and plunged in misery by the very attempt to make her free. In the United States we witness the advantages of education, in the virtue, intelligence and liberty of the people. History points out the ignorance and degradation of other countries, and we are admonished of the duties before us. If our own country is ever to fall from her high position before the world, the cause will be found in the ignorance of the people; if she is to remain where she now stands, with her glory undimmed, educate every child in the land.

It is now satisfactorily ascertained, that our common school fund will be abundant for all the purposes of our extended system of education. The university fund will also be amply sufficient for all the purposes of the university proper. But in proportion to the munificence of the means, should the standard of education be elevated. The branches of the university, as intermediate institutions between the common schools, and the parent institution, should be placed on the most respectable

footing. Whilst the fund will be sufficiently great for the support of the university on the broad scale intended by the legislature, if applied to that object alone, it may fall short of that purpose when diverted to the numerous branches which seem to be demanded by the public. I would therefore suggest that such portions of the seventy-two sections of public land attached to our salt springs, as may not be needed in the manufacture of salt, be set apart by the legislature, as an exclusive fund for the support of the branches of the university. It may be questioned whether these lands can be sold under the conditions of the grant from the United States, but as "they are to be used upon such terms, conditions and regulations as the legislature may direct," it is clearly competent for you to set apart the revenue derived from their use, by lease or otherwise, as a specific fund for any object worthy of public consideration. The lands attached to the state salines, as far as selected, are of the first description of farming lands, and if appropriated in the manner suggested, would give for the support of the branches a fund nearly equal to that belonging to the university proper.

The pecuniary embarrassments which have existed for some time with all portions of the Union, make it my primary duty to communicate to you my opinions on our present system of banking. The introduction of capital into the state is certainly to be desired, as through its means every department of industry is stimulated to increased energy; but we must be careful not to mistake a false and fictitious credit for actual capital. Whilst the existence of the one is a sure guarantee of a country advancing in substantial and real prosperity by the natural laws of trade: the other is the unerring indication of the elements of trade perverted from their true direction, of unreal wealth based upon the false creation of bank expedients, and approaching revulsions, bankruptcy and ruin. The multiplication of banks and bank issues does not produce real capital. The productive labor of the country is the true foundation of all the capital, and banks are the consequence, rather than the cause of a nation's wealth. Gold and silver is the only medium of exchange recognized by the commercial world; bank paper was originally designed as a representative for this metallic medium, but not as a substitute for it. The attempt to substitute paper, by excessive bank issues, for real capital, disturbs the natural laws of trade, and is always attended with fluctuations and revulsions. The quantity of the circulating medium of any country cannot be increased beyond the natural quantity allotted by the laws of trade, without depreciating in value. Our bank paper is made to represent gold and silver, and should always be convertible into that medium at the will of the holder. Care must be exercised, then, not to let this paper representative become too disproportional to the metallic basis allotted us by the laws of trade; if

increased beyond this guarded limit, it loses its general standard of value, depreciates and becomes worthless in the hands of the people.

The system of banking, at present authorized in Michigan, exists in the provisions of a general law, offering to all persons the privileges of banking under certain guards and restrictions. The principles under which this law is based, are certainly correct, destroying as they do, the odious features of a bank monopoly, and giving equal rights to all classes of the community. But in the practical operations of the system, there is much evil to apprehend. As long as a desire of gain exists in the heart of man, attempts will be made to avoid the requisitions of any general law on banking: Our system, then, should be strongly guarded, its provisions rigidly enforced, the operations of the banks vigilantly watched, or the whole state will be irretrievably plunged into the vortex of over banking, with all its attending pernicious consequences. Although, it is but justice to say, that the institutions under the general law, from their returns as far as received, exhibit as sound a condition as any of the chartered banks of the state, it must yet be admitted, that they have multiplied beyond the utmost expectation of the public. It is not, then, from the system itself, if properly reformed, but in its abuses, that we have most to fear. The dangers to be apprehended from the abuses of the system, are over issues of bank paper, a dangerous extension of credit, fluctuations in our currency, and consequently fluctuations in the prices of property and the wages of labor. It becomes your duty then to guard against these evils. Your object should not be the destruction of the system, but an efficient regulation of it, and its restriction to proper limits. With this object I would refer you to the suggestions contained in the report of the Bank Commissioner accompanying this communication.

I may here suggest, that it is important for the legislature to examine into the general condition of all the banks of the state, with a view to the resumption of specie payments at the earliest possible period. From the report of the Bank Commissioner it will be perceived, that the thirteen chartered banks of the state, upon whom will depend the resumption of specie payments, had in circulation on the first day of December last \$1,551,800. Their specie on hand at the same period, amounted to \$350,348.16; their total liabilities were \$3,121,689.53; and their loans and discounts \$3,512,370.53. It will be seen from this statement, when compared with the report of the Commissioner in June 1837, that these banks have, within the period from June to December, increased their circulation one hundred and eighty-three thousand dollars, curtailed their loans and discounts about seventy-six thousand, and lessened their general liabilities about three hundred and ninety thousand dollars. By the act of June 22d, 1837, the banks had

extended to them the privilege of an exemption from specie payments until the 16th day of May next. Under no circumstances should the provisions of this act be extended beyond that period. It is demanded of the banks, and it is due to the character of the country that specie payments should be at once resumed. The banks have had ample time to prepare for such a measure.

By reference to the Commissioner's report, it will also be seen that some of our banks, although continuing to refuse specie on their notes when presented for payment, have declined accepting the terms of the suspension act, and have thus set the legislation of the state at defiance. It is left for the legislature to adopt such measures in the premises, as their wisdom may suggest. The conduct of these institutions has satisfied me, however, that the act allowing banks thirty and sixty days for the redemption of their paper, should at once be repealed. It is by a subterfuge under this act, that the institutions referred to, claim an exemption from the penalties of the existing laws. I have no disposition to do any bank injustice, but I believe an inquiry by the legislature into abuses of the trust confided to some of them, would be productive of public good. It is well enough to test the question whether these corporations are above the laws of the land, and to make the issue at once, if it must arise, whether we are to have a government of the banks or of the people. If your present laws are deficient to coerce the banks into their duty, let them be amended; and if the powers of your Chancellor be doubted, enlarge them.

An exclusive metallic currency is neither to be desired nor expected in this country: but that as large an amount of the precious metals as practicable should be infused into our local circulating medium, is undeniable; and as it is the laboring classes who are most subjected to the losses incident to bank paper, we should endeavor to keep within the state and in circulation a sufficient quantity of gold and silver for our ordinary daily transactions. The suppression of small notes would operate to bring a large amount of metals into circulation, as a substitute for the bank paper which would necessarily be withdrawn. You must suppress small notes, or the gold and silver brought into the state will accumulate in the banks, or be withdrawn for individual purposes connected with banks or banking. An inconvenience to the public might at first arise from the operation of this law; but this inconvenience would pass away, as the vacuum produced by the withdrawal of small notes is filled by a return of specie. The measure, however, should be gradual in its operation, so as not to produce too sudden a contraction of our circulating medium. The opinion that the public would suffer a permanent embarrassment, by suppressing

the circulation of small notes, is not sanctioned by experience. Many of the states have adopted the policy, and in England, where the maturest reflection is given to the subject of currency and banking, all bank paper has been suppressed below the denomination of five pound notes. It may also be worthy of consideration, whether our banks should not be further limited than at present, in the amount of circulation they should be permitted to have out at any one time.

In connexion with the subject of banking, I beg leave to call your attention to the act of the legislature authorizing a loan of five millions of dollars for purposes of internal improvements. By the provisions of this law, it is declared, "that the proceeds of all railroads and canals constructed by the state, the interest on all loans which may be made from the internal improvement fund, and the dividends arising from all bank stocks owned or to be owned by the state, so far as may be necessary, shall, under the direction of the legislature, constitute a sinking fund for the payment of the principal and interest of the loan authorized." Under this law, the faith of the state has been pledged, to guarantee certain sources of revenue for the redemption of our loan. A sense of duty, and the interests of the public require, that a system for the investment and management of this sinking fund, should at once be matured. We have held out to the world these different sources of revenue, as showing the ability of the state to meet its engagements, and I am satisfied that it was the intention of the legislature to carry out in good faith their implied pledge, by state investments in bank stock, so soon as the loan authorized should be completed. That the investment of this sinking fund in bank stocks would be more productive and certain than any other mode, I have little doubt; and as it seems the state is to be a holder of bank stock, the question will arise, whether she will place her funds in private institutions, or in an institution under her own control.

Whilst I am willing to yield to the better judgment of the legislature, I can but express my decided preference for a state institution. In addition to the advantageous creation of a sinking fund, for the payment of our loan by the incorporation of such a bank, we should have an agent with ability to manage the financial operations of the state, and calculated to aid us most essentially in our contemplated works of public improvement. Again, a state bank, if properly managed, would be an important instrument in establishing and sustaining our credit abroad; it would have a salutary influence upon our currency, and would, from its large capital, be enabled to render great assistance to the commercial community, in the exchanges between this and other states. The faith of the state pledged for the redemption of

its circulation, its paper would command confidence in every part of the Union.

If the project of a state bank should find favor with the legislature, I would suggest that its capital should be limited to the amount of the loan, and that its charter continue during the period for which the loan is made. The stock should be apportioned between the state and individuals, in such a proportion as would give the state unrestricted control of her funds, and, at the same time, create such a check by private inspection, as would prevent the abuse of the trust held by the public agents. The circulation of the bank should be limited by its charter, and at no one time should exceed a certain fixed sum. The individual stockholders should give the state real estate securities for the amount of their stock, as an indemnity for a guarantee which the state should issue for the redemption of the circulation of the bank. This guarantee might consist of state bonds, bearing an interest of six per cent, to be deposited in the office of the Bank Commissioners, and, although bearing an interest of six per cent, no interest should be paid whilst the bonds are in their hands. This stock should be assignable only under the order of a court, and after such assignment the interest should begin. The bank should be the depository of all the public moneys, should issue no notes of a less denomination than ten dollars, and should make all the disbursements and exchanges of the state gratuitously. For the capital stock, on the part of the state, we might calculate on the surplus revenue received from the United States, the premium and exchange on the state loan, or such part of the principal of the loan as might not be immediately required for public use, the receipts from all railroads and canals, or, if it should be deemed advisable, the whole school and university fund might, at a reasonable rate of interest, be loaned to the internal improvement fund. From these sources, an ample capital might be produced for all the purposes of the institution; and as there are considerations of a grave character connected with the proposition, I would ask for it the calm and dispassionate deliberation of the legislature.

I have repeatedly expressed my opinion against the policy of granting acts of incorporation to individuals for ordinary purposes of trade. My views on this subject remain unchanged. Competition is the best regulator of every branch of industry. The association of wealth for such objects as may be pursued by individual enterprise, subjects the great body of the mechanic and industrious classes to an unfair and injurious competition. The general law relative to incorporations, now in existence, is sufficient for all the purposes of encouraging manufactures; and I would recommend that the legislature abstain hereafter from all such special legislation as is calculated to create within

the heart of the state a system of privileged monopolies, combining to enhance the profits of stock, and with power to depress the wages of labor and in certain particular departments of trade.

At the last annual assemblage of the legislature, I brought before them the injurious consequences resulting from our existing usury law, and urged the necessity of its repeal, as based upon sound policy, and as called for by the best interest of the state. A casual observance of events for the last eight months, has but increased my conviction of the pernicious tendency of all such futile restraints upon the free circulation of capital from individual to individual, or from one occupation to another. We have attempted by legal enactment to fix the value of money at seven per cent per annum, without regard to the condition of the money market; and what has been the practical operation of the law? Why, that while legislation has limited the rate of interest to seven per cent, the demand of the market has brought it up to fifty, and even one hundred per cent per annum, in direct violation of your enactment. But by a recent act of the legislature the rate of interest on loans, may, by special contract, be increased to ten per cent per annum. This modification of the law of usury, does not recognize, however, the sound and undeniable principle, that whatever legal rate of interest you may establish for the value of money, it will yet command the natural rate of the market, which is produced by the demand of the borrowers, and the competition of the lenders. The value of money, like every other article of commerce, must be regulated by demand and supply. If you authorize the lender, by special contract, to take ten per cent per annum for the use of his money, you are certain of accomplishing at least one thing, and this is, that on every emergency, you bring the value of capital up to ten per cent. In the meantime the harpies and shavers of your money market, are rid of all honorable competition, and extort the most extravagant and usurious interest from the wants of the borrower. But the moment you destroy all restraint upon the free circulation of capital, it will flow into the country, and open competition will regulate its value.

As long as the necessities, and oftentimes interests of men induce them to offer more than your legal rate of value for the use of money, where is the policy of a law, which only throws them into the hands of individuals, who, in addition to the demands of avarice, claim the usurer's compensation for a conscience seared, and ask the usurer's reward for the violated laws of his country. Establish, then, a fixed rate of interest, when no contract exists between the parties, but in all special agreements, leave the interest allowed, to be governed by the discretion of the lender and the borrower.

The geological survey authorized by the last legislature, has been placed under the charge of a competent and scientific gentleman, and is in as rapid progress as the limited appropriation for the last year

would permit. The examinations for the past season, have necessarily been of a general character, preparatory to the more minute survey of the present year. Sufficient investigation, however, has been made to render it certain, that Michigan abounds in such mineral resources as will amply compensate the state for any expenditure the legislature may authorize in promoting this survey. The botanical and zoological departments have received due attention, and it has been discovered that the peninsula of Michigan furnishes an interesting field for investigations in natural history. The central portions of the state belong to the coal formation, and sufficient coal has been found to justify the belief that it exists in abundance. Iron and gypsum have also been discovered in large quantities. The examination of the saline springs has been carried so far, as to render it certain that we possess an extensive salt region, and that with but a comparative trifling expenditure, we shall be enabled to manufacture salt in sufficient quantities not only for home consumption, but that it must become an article of extensive export. The whole number of salines granted by the act of Congress have not as yet been located, in consequence of a want of time to examine the northern region of the state; but such a number have been secured as to justify the legislature in authorizing preparatory measures for bringing them into public use. I beg leave to refer you to the report of the State Geologist, which will be laid before you, for all the information you may desire on this important subject. But as that officer is at present engaged in an extensive analysis, he will not be enabled to submit the result of his investigations at as early a day as he would have desired.

The general advantages resulting to the public from a minute geological survey of our territory, are so manifest, that I am satisfied the subject will recommend itself to your favorable consideration. The development of the mineral resources of the state, is an object of primary consequence, as it will afford opportunities for the investment of capital in manufactures and will enable us in time, to reverse, in some degree at least, the balance of trade with other states, which is at present so large against us. The benefits to agriculture, by obtaining a knowledge of our soils, will be immensely advantageous to the farming interest, and should command attention. The favorable results to the cause of science in a general point of view, should not be overlooked; nor should we forget the opportunity now offered of furnishing an extensive and invaluable cabinet in natural history for our state university. And in view of this latter consideration, I must beg leave to state, that I have been requested by the board of regents to recommend to the legislature, that provision be made, by an increased appropriation for the collection and preservation of specimens intended for that institution. I join the regents most heartily in your suggestion, and submit to you a report

from a committee of their body, from which strong reasons will be derived for complying with the recommendation I now make. Impressed also with the importance of this survey, in its general benefits to the state I commend it to your consideration, as justly claiming a participation in a liberal and enlightened system of legislation.

I conceive it an indispensable and imperious duty, again to call the attention of the legislature to our penitentiary system, and to urge that means may be provided by which it may be brought to some degree of perfection. The commissioners appointed for that purpose, will at an early day, recommend a point for the location of the state prison, and report a place for the building, together with a system of government for the institution. The great object intended to be accomplished by imprisonment as a punishment, is the reformation of the offender. Any system we shall adopt, must accomplish this end, or our penitentiary will become the school of vice. The reformation of the morals of the corrupt and wicked, the enlightenment of the ignorant, and the employment of the idly disposed, are cardinal objects, not to be overlooked in your system and discipline. But the objection urged against directing the time and energies of convicts to some useful occupation, is that it will injuriously affect the mechanic interest of the state. This objection is not without some foundation. There can be no doubt that in some states the labor of convicts has competed with, and in some measure lessened the value of the labor of the honest mechanic; nor can it be questioned that by teaching in state prisons the ordinary trades of the country, our mechanics may be exposed to a degrading association. It is then an undertaking of great difficulty to place our penitentiary under such a system as will exempt the public from taxation for its support, and yet avoid the objections I have stated.

Common humanity forbids, that we should adopt the rigid system of solitary confinement without labor, for experience has shown, that the imprisonment of the offender without occupation, destroys the mental faculties, and soon undermines the constitution; nor is it believed, if this objection did not exist, that the public would consent to direct taxation for the entire support of a state prison. We must, then, from necessity engage the convicts in productive labor. But if possible, we must guard against injuriously affecting the mechanical trades of the state. The prisoner, who is a mechanic at the time of his conviction, might still be employed in his usual occupation; for by so doing, you would not increase the aggregate amount of labor in his particular branch of trade; and if the end to be accomplished is the reformation of the offender, the mechanic interest could not oppose it, as when discharged, he would be free to enter into trade again. But in all cases, when a trade is taught the convict, he should be confined to those branches from which

the country is supplied *by importations from abroad*. No complaint could be urged against this by persons afterwards embarking in the same occupation, for they would engage in it, under an existing state of things, and would have no right to urge the destruction of the system. But as the convicts in this state will for a long time be engaged in constructing the necessary buildings for a permanent penitentiary, the day may be considered remote, when the evils to be apprehended from a state prison monopoly can arise. In maturing your system, however, you should guard against this contingency, although remote and distant.

The President of the United States has recommended the passage of an act of congress for the benefit of pre-emption claimants to the public lands in the western states. This recommendation is demanded by that hardy and enterprising class of citizens, who, invited by congress, have settled upon the public lands; and it is also due to them and the President, that the legislature of this state should second a recommendation which, if successful, has a tendency to bring our vacant territory into the hands of actual settlers. In connexion with this subject, I beg leave to state, that many of the state locations of lands authorized by the grant of congress have conflicted with private claims, and that many of those claims may be recognized without injury to the public. A special message, however, will be communicated on this subject, based upon the report of the Superintendent of Public Instruction, who has inquired into the number of private claims that may be yielded to, without detriment to the fund under this charge.

The legislature at its extra session, which has just closed, has had under consideration a revision of the laws, and have completed such parts as were submitted by the reviser. There remain, however, several important matters, which require your consideration; these are the regulation of costs and fees, the limitation of actions and prosecutions, and provision for the relief of insolvent and imprisoned debtors. And I beg leave here to state, that I cannot permit the occasion to pass without again expressing my conviction that the entire abolition of imprisonment for debt, is at once due, both to the rights of personal liberty, and to a wise and equal dispensation of justice among all classes of citizens. My views upon this all absorbing topic have been fully represented, in repeated communications to your predecessors. But where personal liberty is at stake, where the oppression of the poor and unfortunate call for your protection, where equal justice is to be extended to every citizen, the additional aid of an executive recommendation cannot be needed to ensure the prompt action of an enlightened legislature.

I also conceive it my duty to invite your attention to the present state

of our militia. Under the existing state of things, the whole system is falling into disrepute, and unless some reformation is speedily adopted, any attempt at an organization of the militia of this state must be abandoned. Too little interest is generally felt in this important department of state policy. But it is manifest under our republican form of government, that in the event of war, the chief dependence of the country rests with the citizen soldier, and unless it be made a part of the policy of each state, to discipline the militia and perfect their organization, they will in the event of emergency, be found totally inadequate for all the purposes of national defence. Our people are competent as soldiers for any service, as their history proclaims; but a raw and undisciplined army, though composed of freemen, contend against fearful odds, when opposed to regular troops, and they even the hireling slaves of a despot.

For the purpose of introducing a more perfect discipline in our militia, I would recommend the creation of a school of instruction for officers. Frequent officer drills should be required, and a chief drill officer of the state appointed, whose duty it should be to attend each muster and conduct the drill himself as instructor. Every encouragement should be given to the organization of volunteer corps; they should be exempted from certain burthens of government as an inducement for volunteering, and each company should be furnished with army and camp equipage, at the cost of the state. They should be required to do camp duty three days at least in each year, and should receive from the state marks of honor for excelling in appearance, and for perfection in drill. Your attention is also directed to the organization of the different departments of divisions and brigades and the general staff.

Entertaining, fellow citizens, an anxious and confident hope, that the result of your deliberations will tend to promote the lasting prosperity of the state we represent, I offer you in conclusion, the assurance of my diligent and faithful co-operation in the accomplishment of every measure, conducive to the well being and happiness of the people of Michigan.

STEVENS T. MASON.

January 31, 1838

From *Journal of the House of Representatives*, p. 127

Hon. Speaker of the House of Representatives, Michigan:

Sir—A member of the House of Representatives, in the debate on the annual report of the State Treasurer of this morning, having intimated that the error in the payment of my salary as Governor, was intentional, I have to request through you, as an act of justice to all concerned, the

appointment of a committee by the House of Representatives, with instructions to enquire into the correctness of the member's allegation.

I have the honor to be,

Your ob't serv't,

STEVENS T. MASON.

[See Document No. 27, in *Documents accompanying the Journal of the House of Representatives at the Annual Session in 1838*, pp. 320-321.]

February 9, 1838

From *Journal of The Senate*, pp. 125-126

To the Senate:

In compliance with a joint resolution of the Senate and House of Representatives, requiring information relative to certain disbursements of public moneys and for other purposes, I transmit the accompanying papers as embracing the information desired.

The only moneys drawn by me from the territorial treasury for disbursements, to be found on the books of the late Treasurer of the Territory, as appears by the accompanying papers, are as follows, viz: "One thousand dollars drawn March 23, 1835, and two thousand three hundred and sixty-eight dollars ninety-five cents, drawn September 15, 1834; but on a private account book kept by myself during the period of the disbursements referred to, I find I have charged myself with an additional sum of fifteen hundred dollars. It will also be seen, that I borrowed of the State bank of Michigan, a further sum of twenty-seven hundred dollars, which is embraced in the accounts current accompanying this communication, and which sum was repaid by an act of appropriation November 14, 1835. It will also appear by the accompanying papers, that two thousand two hundred and thirty-six dollars and forty-five cents was also refunded by me to the State Treasurer under a resolution approved November 14, 1835, to make up a deficiency existing in the funds required to meet the payments due the members of the legislature at that period. By a reference to all the papers, however, it will be seen, that no balance remains in my hands.

In answer to the enquiry whether any sum was loaned under the act of August 24, 1835, authorizing a loan of three hundred and ten thousand dollars, I beg leave here to state, that although I visited the city of New York at the time, for the purpose of raising means to meet the claims then existing against the territory, yet from the defects of the law, I failed in the attempted negotiation. In answer to the further enquiry whether this act is still in force, I would respectfully refer you

to the laws of Michigan, or to the Attorney General of the state. The accompanying report of the State Treasurer, will also exhibit the disbursements of the contingent fund under the direction of the Executive since the first organization of the state government.

STEVENS T. MASON.

February 19, 1838

From *Journal of the House of Representatives*, pp. 188-189

To the House of Representatives:

In answer to a resolution of the House of Representatives, requesting the Governor of this state, "to communicate to the House, whether any of the state loan of five millions of dollars has been disposed of, and if so, how much and at what rates, when, to whom, and where payable, and also such correspondence between him and capitalists with regard to the same as is consistent with the public interest," I would respectfully state, that bonds to the amount of five hundred thousand dollars, have been sold to Oliver Newberry, Esq., at a premium of six per cent, the interest payable at the Pheonix Bank, New York, semi-annually, and the principal redeemable at the same institution, in twenty-five years from the first day of January, eighteen hundred and thirty-eight. One million of bonds in addition, have been placed in the hands of John Delafield, Esq., cashier of the Pheonix Bank, as agent of the state for their negotiation, to be sold on the most advantageous terms of the American and European markets. These bonds have been introduced into the European market, and I am in daily expectation of receiving advices as to the result of Mr. King's negotiation, who has charge of that portion of the loan in the European market. So soon as these advices are received, they will be submitted to the legislature. I have not deemed it desirable to negotiate more than a million and a half of dollars of the loan for the year eighteen hundred and thirty-eight, as it is believed that no more than that sum will be required for the purposes of internal improvement for the present year. This sum, however, may be certainly calculated upon, and the legislature can safely appropriate to that amount. If the legislation of the present session, should require it, I am confident the whole loan or any additional portion of it, may readily be negotiated.

Having had personal intercourse with the gentlemen connected with the negotiation of the loan, there is consequently no correspondence of such a character as that contemplated by the resolution of the House.

Although not embraced in your resolution of inquiry, I deem proper

to state, to prevent misapprehension, that the drafts on Mr. Delafield alleged to have been protested, were not drawn as part of the loan. Mr. Delafield is the purchaser of no portion of the state bonds; but is simply the agent of the state in New York, connected with the negotiation, the payment of the interest on the loan, and the redemption of the principal, as it is made payable at the bank of which he is an officer. The drafts drawn on him were for a voluntary advance on his part, and drawn to relieve the exchanges between Detroit and New York. I am not fully apprized of the reasons of their non-payment.

STEVENS T. MASON.

February 27, 1838

From *Documents of the House of Representatives*, pp. 423-424

To the Senate and House of Representatives:

I transmit for the consideration of the legislature, a memorial from the convention of the banking associations recently held in this city, asking a participation in the benefits resulting from the negotiation of the state loan for purposes of internal improvement.

The memorialists desire to become the purchasers of state stock so as to place themselves in eastern funds by the sale of this stock.

In the exercise of a discretion necessarily vested in the Executive, by the law authorizing a loan of five millions of dollars for purposes of internal improvement, I have, as heretofore stated to the legislature, already issued one million and a half of the state stock under this law. This amount is considered all that can be prudently disposed of in the actual construction of our public works during the present year; and as I do not feel myself authorized to negotiate this loan more rapidly than it may be demanded for the direct purposes of internal improvement, nor for purposes of loan or deposit, the application of the memorialists is respectfully submitted for the consideration of the legislature.

I however concur fully with the memorialists in the position, that the banking associations they represent are justly entitled to the aid and support of the state government, so far as it may be extended to them without detriment or loss to the more general interest of the public; and I would therefore most earnestly call your attention to some measure of relief, as dictated by a sound public policy.

Whilst I do not concur in the suggestion for a sale of state stock, there are other resources arising from the negotiation of the state loan, which may be used to the public advantage, through these institutions. The almost exclusive circulating medium of the state is composed of the issues of the associations under the general banking law, and whatever losses

may be sustained from its depreciation, fall upon the bill holders, who are the people. The question of policy as to authorizing these issues of bank paper, has passed, and the one which now occurs is, shall the state endeavor to give character and credit to the circulating medium thus created? Your merchants have been compelled to sell their goods for this circulating medium, and unless some measures are adopted by which the holders of the paper of these associations can purchase exchange on the eastern cities, where our debt is owned, with this fund, the business of the state must be completely paralyzed.

My impressions have been, and are as yet, that a state bank, with ability to sell exchange on New York or other eastern cities, might, by a judicious management with these associations for the periodical redemption of their bills, be an effectual agent in restoring confidence in our currency. But in the absence of such an institution, the patronage and resources of the state must be directed to the support of the associations themselves. I should object to a sale of state stock, as asked by the memorialists, as calculated to affect the credit of the state, and to depreciate the value of the stock, by bringing it into market through too many different channels; and the measure, if adopted, would have an injurious effect upon the future financial operations of the state. The only mode of relief, then, tending to meet the prayer of the memorialists, is, for the legislature to direct the proceeds of the state stock at present issued, to be extended to such associations under the general banking law as may be deemed solvent by the Bank Commissioners, and but temporarily depressed.

It has ever been my desire, as I should consider it my duty, to relieve, without partiality or favor, the banks of the state by any foreign exchange which may come into my hands by virtue of the state loan. But as the funds to be received in the sale of this exchange must be such as the state deposit bank will credit as cash, the amount of exchange extended to the other banks can be to a great extent governed by that institution, whilst at the same time it is but justice to say, that I have ever found its officers ready to go every length with the state authorities in any measure of public benefit. It would therefore be relieving the deposite bank from an unpleasant embarrassment, if the Treasurer should be authorized to receive for this exchange, when sold, such current funds as would answer the purpose of public disbursement; and in addition to this measure of relief, I would submit the propriety of directing an additional but limited negotiation of state stock, for the purpose of increasing the amount of exchange, the avails of which might be deposited with such banks of the state as would insure their safe keeping, by giving other and collateral security to their general and ordinary obligations, and also for the payment of a reasonable interest to the state for the use

of the money, and be bound to refund it as it should be gradually called for under subsequent appropriations for public objects.

STEVENSON T. MASON.

March 8, 1838

From *Journal of the Senate*, pp. 195-196

To the Senate and House of Representatives:

I have received from the board of regents of the university of Michigan, the following resolution, viz:

Resolved, That the president of the board be authorized to ascertain whether a loan of state bonds to the amount of one hundred and fifty thousand dollars can be obtained for the university during the term of twenty years, the interest and principal to be secured to the Treasurer of the state, and to be paid out of any moneys belonging to the university and which may be applicable to such purposes."

This application on the part of the state university, I at once submit to the legislature, with a recommendation that it should be favorably received. The university of Michigan is the common property of the people of the state, and with its success is identified the highest interest of our dawning commonwealth. The fund set apart for its support, if guarded with a prudent husbandry, will be ample for the great purposes of education we desire to secure, and it is with this view, that I recommend the contemplated loan to your favorable consideration.

It is highly important for the formation of our state character, that this institution shall be opened for the reception of students at as early a day as practicable. But the necessary buildings must first be erected. The loan asked will accomplish this end, and provide the necessary library and philosophical apparatus required for the different professorships and students. Without the loan, the opening of the institution must necessarily await the tardy process of realizing a fund by the sale of the university lands, whilst the lands themselves, must be disposed of at immense sacrifice under the existing financial embarrassments of the country. Already sufficient lands have been sold to meet the interest on the sum of one hundred and fifty thousand dollars, and as the whole fund, amounting to not less than one million of dollars, will be pledged for the redemption of the principal, no charge can possibly fall upon the treasury of the state; and I feel confident that the recommendation cannot fail to receive the favorable consideration of a liberal and enlightened legislature.

STEVENSON T. MASON.

March 22, 1838

From *Journal of the House of Representatives*, pp. 330-331*To the House of Representatives:*

I am constrained by a sense of public duty to call the attention of the legislature to the importance of providing some proper agency for the management of the state loans, already authorized or hereafter to be authorized by the state. At present the exclusive and unrestricted negotiation and management of loans, as well as the sale of all exchanges derived from that source, are left to the discretion of the Governor of the state. This is wrong in principle, as it gives to the control of one individual, millions of the public money, without any corresponding check or responsibility. But in addition to the objection on the ground of principle, it will readily occur to you, that the public interest demands that this important branch of our state policy, the management of its finances, should receive the undivided attention of a distinct department organized for that purpose. It is impossible for the executive to bestow that attention to the subject which its importance demands, without the neglect of other imperious duties. But whilst as an officer of the state, I am willing to discharge any duty imposed upon me by the public, I feel it due to myself, that I should not incur the heavy responsibility of controlling [sic] the loans of the state when they can receive but a limited portion of my time and services. I would therefore earnestly recommend the creation of a board of loan commissioners, (the members to be chosen by the legislature) to whom the negotiation and management of all loans shall be intrusted.

STEVENS T. MASON.

April 2, 1838

From *Journal of the House of Representatives*, pp. 408-409*To the House of Representatives:*

I return without my approval, a bill entitled "A bill to encourage the manufacture of glass within the state of Michigan." This bill, although purporting to be an act for the encouragement of domestic manufactures, yet when stripped of its disguise, is nothing more nor less than an act for the relief of Ebenezer Hall and Isaac J. Grovier, copartners in trade, engaged in the manufacture of glass. By what principle of justice can the relief asked by this bill be granted? Is this department of trade entitled to greater protection than another? The manufacture of glass has long ceased in the United States to be a mystery; it is perfectly understood and has become plain and simple in its operations. Private

enterprize in this, as in every branch of industry, should be left to its own exertions. We are no longer dependent on foreign manufactories for the glass demanded by our country. American industry has enabled us to rely on our own manufactures, and if the investment of capital for such purpose in this state is found to be profitable, it will flow here without legislative aid. If otherwise, the efforts of the legislature to sustain the manufacture of glass, when our own product can be under-sold by importations from adjoining states, are futile.

If you loan the credit of the state to the manufacturer of glass, by what right or rule of justice can you withhold it from the manufacturer of flour, the manufacturer of shoes, the manufacturer of paper, or all other manufacturers? All are equally entitled to the benefits and protection resulting from an equal distribution of public benefits. You cannot say otherwise when the principles of the bill now before you, are at once established as the settled policy of the state. But I warn the legislature against a wanton use of the credit of the state. If you have a surplus in your state treasury, (a fact I have yet to learn) relieve, by direct appropriation, the wants of individuals; but reserve the credit and faith of your state for high and great purposes of general public good; it should not be prostituted, whenever asked, for every purpose, however unreasonable or however unjust.

In the present application for relief before me, I would feel every desire to yield to the urgent demands of the applicants, could I do so consistently with my sense of public duty; but as this cannot be done without the sacrifice of principle, and without establishing a precedent fraught with danger to the interest of the people, the bill is returned without my signature to the House in which it originated.

STEVENS T. MASON.

1839

January 7, 1839

From *Journal of the Senate*, pp. 8-31

Fellow Citizens of the Senate and House of Representatives:

Addressing to you the last annual communication I shall be called upon to present to the people of Michigan, it is a source of unfeigned gratification to be able to congratulate you on the prosperous condition to which our rising commonwealth has attained. You are assembled at a period of peculiar interest. Our people have been favored with general health; rich rewards have been gathered in the fields of agriculture; and in every branch of trade, industry and labor have been crowned with unexampled success. With such an earnest from the past, and with just hopes and expectations for the future, we cannot fail to reach that high destiny, which has been assigned us with our sister republics.

Neither are these indications of prosperity confined to the limits of our own state. We have but to look abroad upon the condition of our common country, to be satisfied with the lot Providence has assigned us. With a government the freest in the world, we are exempt from internal dissensions; our external relations with foreign powers are as yet undisturbed; our commerce is known to every clime; the increase of our population is beyond former example; and on every side our country presents the evidences of that continued favor which has elevated us from feeble and dependent colonies to an extended and powerful confederacy.

Based as our government is, upon the representative will of the people, the legislature is, emphatically, the depository of their rights and liberties. It will, therefore, fellow-citizens, become you to watch with a vigilant eye the different interests committed to your charge, to guard against all encroachments upon the rights of those you represent, to expose all abuses of power or trust, and to provide wholesome checks against subsequent dangers. Coming as you do, from the immediate body of the people, knowing their desires and wants, it is expected that your wisdom and patriotism will supply the deficiencies, and correct the errors of other branches of the government. No station, therefore, can be more important, than the one you now occupy. In the discharge of your duties, you are bound by the strongest obligations, to endeavor to perpetuate the principles upon which our government has been founded; you are called upon, to cherish that ardent attachment for liberty and equal rights which can alone secure the happiness of the American people; and it is

expected that by your precept and example, you will foster a veneration for the institutions of our country.

The officer at the head of the treasury will lay before you the condition of the finances of the state. From his representation, it will be seen, that the current receipts into the treasury for the past year, have fallen short of the expenditures of the government, under appropriations by law. The amount of receipts from the first day of January, to the twentieth day of December, 1838, was \$177,662.20: the expenditures during the same period, amounted to \$185,568.76—shewing an excess of expenditures of \$7,906.56. This deficiency in the revenue, is deeply to be regretted, and calls for the prompt and efficient interposition of the Legislature. You will perceive, from the report of the Auditor General, that the amount of taxes due and unpaid by the different counties, will nearly equal the sum of fifty thousand dollars. This inattention on the part of the officers of many counties to the solemn requisitions of law, must prostrate the energies of the state government, unless corrected; and I submit to you whether some additional remedy should not be provided against this gross neglect of duty. The neglect in the assessment and returns of some of the counties must also be remedied by special legislation, at your present session. Sensible that the subject requires the immediate consideration of the legislature, and satisfied that the existing defects in our revenue system demand a prompt correction, I earnestly invoke your attention to the adoption of such measures as will relieve the people of Michigan from the otherwise inevitable consequence—an embarrassed and bankrupt treasury. It is but just, however, to add, that in addition to the deficiencies in collecting the revenue, the heavy charges incident to the operations of a new state, and which have been drawn from the general fund under the sanction of your predecessors, will in some degree offer a justification for the balance against the treasury.

It affords me the highest gratification to renew my congratulations on the successful progress of our works of internal improvement. Each division of the system has been prosecuted with an energy and activity, highly creditable to those to whom they are entrusted. The central road is under contract as far as Jackson, being a distance of seventy-eight miles from Detroit, and locations are now in progress as far as Kalamazoo, one hundred and forty miles from Detroit. By the agreement with the contractor, that portion of this road between Ypsilanti and Ann Arbor, should have been ready for the iron rails as early as the month of October, but from some cause, is not as yet completed. On the southern road a commendable energy has been evinced. Thirty miles of this road, as far as Adrian, will be ready for laying the iron early in the ensuing spring; it is under contract as far as Hillsdale, and the

engineers are completing the final locations on the third division, as far as the village of Branch. The Saginaw and Clinton canal, are in active progress; the same may be said of the northern railroad, which has been placed under contract for clearing and grubbing from Port Huron to Lyons. The contracts for the construction of the canal around the falls of the Sault de Ste. Marie, have been let, and the work itself will be commenced at an early day. Additional experience but serves to confirm the importance of this last improvement, and it is hoped, it may command the consideration of the Legislature. For a more particular and detailed statement, however, of the condition and progress of our internal improvements, I beg leave to refer you to the report of the commissioners, which will be laid before you without unnecessary delay.

The expenditures in this department, thus far, amount in all to \$888,301.03. On the central road, the expenditure has been \$572,789.69; the southern, \$216,825.70; the northern, \$20,998.69; on the Clinton canal, \$34,098.84; the Saginaw, \$17,203.99; the Saulte de Ste. Marie canal, \$1,946.75; and on the different navigable streams, \$24,136.64. The central road is the only work which has been completed, so far as to yield an income. The returns of the collector exhibit a flattering statement of receipts, and they augur well for the ultimate success of this road, as a work of public importance. From the month of February, 1838, when the road was opened, up to the eighteenth day of December last, the entire receipt of tolls amounted to \$81,604.54. The number of passengers who have passed over this road, was twenty-eight thousand seven hundred and fifty-one; the amount of merchandize transported, nine million seven hundred and ninety-two thousand four hundred and fifteen pounds; and the number of barrels of flour fifteen thousand and fifty. This amount of receipts, after deducting the expenses of the road, is applicable to the purposes of the sinking fund, and is now in bank. When it is borne in mind that the receipts as above stated, have accrued on only twenty-eight miles of the road, it is fair to conclude, that in progress of time, when the entire work is completed, the resources of the state developed and the enterprize of our increasing population actively employed, it will yield a return of income beyond our most sanguine expectations.

But this flattering exhibition must not lead us to forget the caution and economy with which our expenditures should be made. We have adopted a system of internal improvements, which will, for its success, demand the exercise of our most rigid economy. The works we have in contemplation, embrace, in all, a distance of eleven hundred and nine miles, and are to be constructed at an estimated expenditure of seven million seven hundred and ninety-four thousand four hundred and thirty

dollars, exclusive of all cost for cars, locomotives, and other machinery. This estimate, it is feared, will fall short of the actual cost of these works, and with such apprehensions, it will behoove the Legislature to guard with a scrupulous care the fund assigned to this branch of the government. Examine rigidly the expenditures of the commissioners. Let no complaints pass unheeded. Direct your committees to investigate fully the proceedings of the present and previous boards of commissioners, that it may be distinctly known to the people of Michigan, if there have been any profligate expenditures, or improper use of the public moneys.

Connected with the internal improvements of the state, there is a subject, to which I beg leave to call your impartial consideration. Under the act of March 21st, 1837, the Governor of the state was authorized to negotiate a loan of five millions of dollars. This duty has been fulfilled, and I now submit to the legislature the details of that negotiation.

Immediately on the enactment of the law authorizing this loan, its exclusive negotiation was placed in the hands of a competent agent in the city of New York, it being impracticable for the Executive of the state to devote personally to the undertaking that attention which its magnitude required. Although confidently assured at this time, that a negotiation would be closed at an early day, yet in consequence of the embarrassed state of the money market, and the difficulty attending the sale of American stocks abroad, the expectations of the agent were left unrealized. It is but just, however, to say, that this assurance of the agent was based upon advices from Europe, received through the banking-house to whom the foreign negotiation was entrusted. As an earnest that the loan would be concluded, the agent agreed to advance to the state, on his own account, one hundred and fifty thousand dollars. This amount was received, and contrary to my expectations or instructions, through bills drawn on London, on account of the Michigan state stock. The subsequent reception in London of the amended law, authorizing the loan, induced the contracting parties to break off the negotiation, which would have been successful, had not the amended, as well as the original law, been defective. This failure in the foreign negotiation, compelled the reimbursement of the sum received through the medium of the European bankers.

To satisfy the legislature that this stock has been introduced into the European market under the most favorable auspices, it is but necessary to state, that it was entrusted to the hands and received the personal attention of a member of the house of Prime, Ward & King, of the city of New York. Mr. King thus reports the result of his attempted

negotiation in London:—"The bonds were received in London in December, 1837. Preparatory negotiations had been entered into there, with a prospect of success, in the anticipation that the amendatory act of Michigan would have been clear and explicit as to making principal and interest, both in sterling money, payable in London. Said amendatory act, as also the original act, relating to these bonds, no where expressly and directly, nor in any way but by inference, authorized or permitted the payment of the principal abroad, although it was explicit as to the payment of interest. But it directly limited the rate at which payment of either or both should be made in London—at par or \$4 44-100 per £ 1 sterling, although it requires, that any premium or gain of exchange upon the negotiation should be accounted for to the state of Michigan. Thus, although the state might receive the proceeds of the negotiation of the bonds in sterling abroad, at a premium of ten per cent, yet it would only refund the money and pay the interest at par—in other words, to receive \$4 88-100 per £ sterling, but to pay back \$4 44-100 per £ sterling. It was then thought practicable to negotiate for bonds in dollars, principal and interest payable in New York, but the uncertainty as to rates of exchange, rendered any probable price in London insufficient to cover limits. An effort was then made to obtain authority to draw for a given amount upon leaving the bonds in London, if that should suit the state of Michigan; but no such authority, except after sales made, could be obtained. The rate in London for a Michigan loan of six per cent, interest and principal payable in New York, would probably be \$95 40-100, without allowance for commission and charges." Thus much of the report of Mr. King is submitted to you, in justice to all the parties concerned, and that the embarrassments attending the negotiation of this loan may be fully understood.

In the mean time, however, under the apprehension that the delays in the foreign negotiations might leave the board of Internal Improvement without the adequate funds necessary for the prosecution of the public works under their charge, five hundred thousand dollars of state bonds was sold to a gentleman of this city at a premium of six per cent, payable in the current funds of our own banks. On this sale to Mr. Newberry, two hundred thousand dollars was paid, the remaining three hundred thousand dollars of bonds was returned to the state authorities, in consequence of the inability of the holder to meet his payments, or to negotiate his stock, either in American or European markets. Previous to this sale, a proposition was made to the Detroit city banks, but they declined entering into any negotiations.

For the further purpose of showing the embarrassments and difficulties attending moneyed operations during the period the Michigan loan has been in market, I beg leave to state that on the seventh day of May last,

a written contract for the entire loan, at par, was entered into with a gentleman of the city of New York, whose financial relations justified the conclusion that he could command the ability to meet his engagement. Eighty thousand dollars on this contract was paid, but it was subsequently cancelled, from the inability of the contractor to meet his additional payments.

Under these embarrassments, and amidst the continued increase of state securities in both the American and European markets, I closed a contract in May last, with the Morris canal banking company, for five millions of state stock, including that issued to the Ypsilanti and Tecumseh, and Allegan and Marshall railroad companies. A copy of this contract, together with other papers relating to the subject, accompany this communication, and to which I beg leave to refer you.

The desire and expectation of all the parties to this contract was, that the state of Michigan should realize the par value of her bonds. By the terms of the contract, the sale was considered absolute, although the agreement itself is shaped as an agency. This feature in the contract was urged from the fact, that as Michigan stock, introduced into the market through other sources, had sold as low as ninety-three or ninety-five cents on the dollar, the Morris canal and banking company were apprehensive, that in the first disposition of this loan, they should be compelled to sell below the par value of the bonds. They were unwilling to encounter this risk, and as the law forbade a direct sale at a less rate than par, provision was made for a commission under an agency, the company guaranteeing to the state the different instalments, whether funds were realized on a sale of the bonds or not. Under this negotiation, one million three hundred thousand dollars has been paid into the state treasury. For the first year the notes of the Morris canal and banking company were to have been received in payment, and to be disbursed by the state, but from considerations connected with our currency at home, drafts at ninety days were subsequently substituted, as appears by the accompanying papers. The remaining payments are to be made in quarterly instalments of 250,000 dollars.

Associated with the Morris canal and banking company, in the purchase of the Michigan bonds, will be found persons of high standing with the financial public, both in the United States and Europe. With a desire to realize to the state the par value of her stock, an agent was despatched abroad, who, as late as October 26, 1838, had been unable to effect any negotiation. Under these embarrassing circumstances, the Morris canal and banking company, as you will perceive by the documents transmitted to you, have closed the entire negotiation by a sale of three millions of stock to the Bank of the United States. I regretted the neces-

sity of this sale, as I had hoped to have saved to the state the payment of all commissions.

As a justification for closing this negotiation, the parties, in their communication, say:—"After consulting with those interested with us, in the contract and agency made with you on behalf of your state, we have come to the conclusion, that we see no prospect of benefitting you, by declining the offer now made to us, and have, therefore, closed with the party making the offer to purchase at par. We are free to confess, that the recent advices from Europe, of the great and unexpected accumulation of American securities offered at low rates, and the fact that some of the most undoubted state stocks have been urged upon that market by banking houses, whose connections with this country had led us to expect a different course, have inspired no little apprehensions of unpleasant results, and have caused us for some time past, to feel that the commission stipulated for, forms but an inadequate compensation for continuing the risk of the foreign market. Banking houses in London give a very gloomy aspect to the feeling in regard to American securities, and the Great Western has actually brought back a large amount of six per cent bonds, payable in London, from utter inability to realize funds upon them, except at immense sacrifice. In addition to all this, sterling six per cent bonds, have been recently sold in this city at 103, and more are offered at the same rate, which would reduce the rate of your bonds, being payable in this country, at about 92 cents."

I have thus, as concisely as a correct understanding of the subject would permit, stated to you the proceedings which have been had under the act authorizing a loan of five millions of dollars for purposes of internal improvements. The negotiation entered into, was the most favorable presented by the market; indeed it became a question, whether this contract should be accepted, or our works of internal improvement be arrested. After mature deliberation, it was believed that a suspension of our works of internal improvements at this time would have proven more prejudicial to the public interest than the sale of stock which has been made. No other motive has actuated the executive than a desire to discharge his duties with fidelity, and to advance the prosperity of the state; he can only regret that he is unable to report a more satisfactory result to his efforts.

The negotiation of this loan was committed to the executive, contrary to his sense and opinion of what was due to the public interests. At the last session of the legislature, he earnestly recommended, by a special message, the appointment of loan commissioners; he stated his inability to devote the proper time to the duty imposed upon him; and above all, urged that it was wrong in principle to entrust such heavy interests to the uncontrolled discretion of one individual, when no corresponding

securities to the state existed. Whilst the commissioners of other states devote their undivided exertions to the negotiation of their loans, and are present the greater portion of the year at the theatre of their operations, the time of the executive of this state has been too much divided between the ordinary duties of his office and his negotiations abroad, to secure a proper attention to the important trusts committed to him. If, then, it should occur to the legislature, that the success of this loan would have been promoted had it been placed in other hands, the loss may in part be attributed to a false economy, which would jeopardize millions of the public funds, rather than create the comparatively unimportant charge upon the treasury of an additional salaried office. With such views and sentiments, I must again urge upon the legislature the absolute importance of transferring the management of this loan to other hands.

But, if the subject is inquired into with a spirit of candor, it will be found that the loss to the state will not ultimately prove so great as is at first imagined. By the contract with the Morris Canal and Banking Company, our bonds are made dollar bonds, and are payable, both principal and interest, in the city of New York. In the payment of the interest for twenty-five years to come, when the principal is to be redeemed, no commissions or charges are accruing against the state, neither have we for the same period, foreign exchange against us. These considerations are of some moment, and are worthy of consideration. It may perhaps also be well to enquire into the sale of the stocks of other states, and more particularly those of our own issued to private companies, which were introduced into market from other sources, and which, to say the least, have elevated the credit of the state to no great extent. But, as there are many circumstances connected with this negotiation, which admit of explanation, and which have, perhaps, in the excitement of a political contest, received an unjust application, I would recommend the appointment of a committee, to investigate all such matters as present an unfavorable aspect to any portion of your body. For myself, I court the most rigid enquiry—nay, I demand it at the hands of this legislature.

The unparalleled agitation which has existed throughout the country for the past two years, makes it my imperative duty to call your attention to the subject of the currency. It certainly is one of the highest duties of the legislature, to guard the public against the evils of a spurious and vitiated currency. Ours has hitherto chiefly consisted of the paper issues of state banks. These institutions, if properly conducted, are not only highly useful, but may be considered as essential to the prosperity of the country. The object of legislation should therefore

be, not to destroy, but to correct, the abuses incident to the present system of banking.

In reviewing the history of the embarrassments that have so recently convulsed the American continent, the distant observer must be struck with no little wonder, when seeing a nation at the very height of its prosperity, and almost without any apparent cause, suddenly plunged into bankruptcy and ruin. To him, however, who watched the progress of events at home, the approaching catastrophe was inevitable.

But a short time previous to this revulsion throughout the country, our commercial affairs, and trade in general, were greatly extended, and chiefly conducted on credit. The means for sustaining this state of things were furnished by the immense amount of paper currency issued by the innumerable banks established by the different states. This increase of currency, if it can be called a currency, occasioned increase of prices, fluctuations and expansions in the circulating medium, and finally a total derangement of the laws of trade; and as the profits of the banks were in proportion to their discounts, the approaching demand for specie by a return of their issues was overlooked. The period arrived, however, when this demand for specie, to pay foreign debts, must be made, and the inability in the banks to meet it, produced the general suspension of specie payments, which has been so destructive to the country.

No state, perhaps, has suffered more from the evils of a deranged currency than our own. A most serious and responsible portion of your legislative labors, therefore, consists in supplying an effectual remedy against the disastrous scenes of the past year. Let your attention be diligently directed to this object, for experience has shown that neither a regard for the rights of the people, a sense of moral obligation, nor a respect for the injunction of the laws of the land, are always sufficient to restrain banks in the abuse of a public trust. To the reports of your bank commissioners, I refer you, for a detailed statement of the condition and operations of the different institutions of the state, and I submit to your wisdom the correction of such abuses of your banking system as will be exhibited to you by those officers.

But the restoration of our currency to a sound state, ought to be effected with as little injury as possible to existing institutions. A just system of redress for abuses committed, and the reformation of palpable defects does not, by any means, necessarily imply a hostility to banks. The sickly cry of war against the banks, is losing its influence with an intelligent public. War against the banks! Is it to be seen in the banking history of the past two years—in obligations unredeemed, laws violated, and public sentiment outraged? War against the banks! Is it to be found in the archives of your national or state legislatures—in legalizing the suspension of specie payments; in the indulgence of the

federal government to its depositories, and in the forbearance of the American people? Let there be an end, then, of this cry of war against the banks. The banks have their rights and should be protected in them; but they are not above all law, both human and divine. The right of exemption from all responsibility to the people, as set up by many of the existing banks of the present day, is fraught with the most dangerous consequences, and should be firmly and boldly resisted. As has been justly declared, if all the pretensions of these corporations are acknowledged, it is elevating the money power above all others—"above thrones and principalities, laws and constitutions. The debasing consequences which must follow, both morally and politically, are easily seen. Can it be done without debasing the noble and independent spirit which created our free institutions, and without which it is impossible to maintain them? Can it be done without spreading over the land one all-absorbing spirit of gain, which shall extinguish all the more elevated feelings of our nature, and raise him who may dispense the favors of banks, in public estimation, above the philosopher, the statesman, the divine, the patriot, the warrior, or those engaged in the active and productive pursuits of life?"

In my last annual communication to the legislature, I expressed the opinion, that a powerful and important auxiliary in the reformation of our currency, would be found in the creation of a state bank. The experience of the past year, and additional reflection, have but confirmed me in this opinion. This institution, if created, should be made in reality a state institution, responsible to the people, and under the government of their immediate agents. It may be a question worthy of serious consideration, whether the high power of stamping paper, as a substitute for the currency recognized by the federal constitution, should ever have been conferred upon private corporations. It grants an important immunity to a favored few, bestows upon them privileges liable to abuse, and takes from the people the power of regulating their own circulating medium. In a state institution, the control over the currency is in the hands of the people, and the expansions and contractions of paper issues, which always prove so ruinous in their consequences, may be remedied or avoided at the public will. In addition to these considerations, it is a matter of no small moment, that whilst the profits of private banks, are so much taken from the pockets of the people, for the benefit of a favored few, the dividends arising on the discounts of a state institution revert back to the people, as a source of revenue to the public treasury.

Should the recommendation of a state bank meet your concurrence, it will task your most mature deliberation in determining its features and provisions. It is, however, confidently believed that the wisdom of the

legislature will supply every want of Executive recommendation, and that no bill will receive your sanction that does not protect the interests and guard the rights of the people of Michigan.

In the organization of such an institution, it will be found that the mode of procuring the necessary capital, will not be an unimportant consideration. The bank should not attempt operations without the actual capital required by the charter being paid into its vaults. This capital might consist of the surplus revenue received from the federal government, the sinking fund arising from the receipts on our works of internal improvement, the university and common school fund, and the proceeds of an issue of state stock. For the detailed features of a charter, we must avail ourselves of the lights and experience of other states. In one conviction, however, I am clear: it is, that the control of the institution should never be suffered to pass from the hands of the state. Not less than six or eight states of the Union have created banks with this general character, and thus far, they have realized the most sanguine expectations of their respective people. The apprehensions of political influence directing the operations of a state institution, are shown to be unfounded. But, as declared to your predecessors, whilst I can but express the opinion, that a state bank founded on the credit and resources of the state, would be all-important to the prosperity of Michigan, and essential to the reformation of our currency, I shall readily yield to the better judgment of the legislature.

The Superintendent of Public Instruction will present to you the condition of our common schools, and the state of the public fund committed to his charge. In addition to previous sales, the sales during the past year, of lands set apart for common schools, amounted to fifty-five thousand six hundred and fifty dollars, and those of the university lands, to ten thousand one hundred and four dollars. The interest on school lands heretofore sold, has been promptly paid by the purchasers, and it is confidently expected, that the different counties, which have received portions of this fund, will meet their obligations at maturity. But although the purchasers of these, as well as the university lands, have met the interest, as it accrued, yet the deranged state of our currency, and the general scarcity of money, render it peculiarly difficult for them, at present, to meet the instalment [sic] on the principal now due or coming due. It is perfectly obvious, that the interest would not be paid, did not the holders desire to retain the lands, and the only portion of this fund the state really requires is the interest. I would, therefore, respectfully suggest to your consideration, the propriety of vesting the Superintendent with authority to grant a reasonable extension of the

payment of the instalment [sic] of ten per cent, where, in his opinion, it can be done without jeopardizing the interest of the state.

By considering the amount of duties, at present attached to the office, it must readily occur to you, that those of the Superintendent, are becoming too onerous for any one officer. The fund under his direction, is an important one, and should receive the undivided attention of a separate and distinct officer. The ordinary and legitimate duties of the Superintendent, in his supervision of our common schools, and the university of Michigan, are likewise highly important and arduous. I would, therefore, earnestly recommend the appointment of an assistant who should relieve the Superintendent from the immediate direction of the financial department of his office.

The regents of the university of Michigan, will report to you the progress of the institution under their direction. As yet, their operations have been limited, resulting from the small income thus far received from the university lands. Five branches of the institution have been organized and are located at Detroit, Monroe, Pontiac, Kalamazoo and Niles. At these branches there are already one hundred and sixty-three youths, under a course of instruction, preparatory to entering the parent institution. An increasing demand exists in the different counties for additional branches; but the limited means at present under the control of the regents, will not justify a compliance with this demand. I would, therefore, again recommend that the seventy-two sections of land attached to the state salines, be set apart, as a distinct and permanent fund for the support of the branches of the university.

The lands belonging to the university proper, have been located by a competent officer, and generally confirmed by the proper department at Washington, except the locations on the Grand River. These locations, at an early day, were communicated to the general land office, but as yet, the decision of the commissioner has not been received by the Executive. Under the authority, and by the directions of the legislature, John Mullett, Esq., was appointed to review these locations; but no report has ever been received from him. Under the act of the last legislature, a loan of one hundred thousand dollars has been effected for the purpose of constructing the university buildings; a plan for the buildings has been adopted, and their erection will be commenced early in the ensuing spring.

I have so often referred to the subject of education in my former communications to the legislature, and its importance to the permanent prosperity and happiness of the American people, is so manifest, that I shall at present refrain from its repetition. In a government like ours, which emanates from the people, and where the entire administration of its affairs is submitted to their supervision and control, no other subject

can equal in importance, that of public instruction. As the friends of civil liberty, it becomes our duty to provide for the education of the rising generation. To the intelligence of those who have preceded us, we are indebted for our admirable system of government, and it is only upon the intelligence of those who are to come after us, that we can hope for the preservation and perpetuation of that system. Our own state has been highly favored. The federal government has secured us an ample fund for all the purposes of a liberal system of education; and it only remains for us, to foster it with a scrupulous regard to the important object for which it is assigned. Our system of education, as adopted, has not as yet had sufficient time to develope [sic] its defects, if any exist. It would not, therefore, be advisable, perhaps, to attempt any material change at present. The success of the system thus far, is as great as could reasonably be expected, from the short period it has been in operation.

The geological survey authorized by the legislature, has progressed with all the expedition the nature of that important work would permit; and the high character and scientific ability of those to whom the survey is entrusted, insure its satisfactory completion to the public. For full information on the subject, I refer you to the report of the chief officer of this department, which will be submitted at an early day. From this source it will be perceived, that the anticipation of benefits to the state from this survey, are about to be fully realized, and that the resources of wealth developed to Michigan are unbounded.

At the last session of the legislature, I called the attention of your predecessors to the importance of encouraging by legislative enactments, the agricultural interests of the state. A bill with this object, passed the House of Representatives at that period, but failed to receive the action of the Senate. The agricultural interest is one of great importance, and claims with justice the protection of the government, and yet, it has received less aid from direct legislation, than any other department of industry. But I feel, that when it is recollected, how essentially the real prosperity of Michigan depends upon the cultivation of her soil and the labors of her husbandmen, the subject will receive your earnest consideration and favorable action.

The commissioners appointed to superintend the erection of the state penitentiary, have proceeded in their work with unexampled rapidity. The plan of the buildings has been altered from the original design, so as to produce a saving to the state of two hundred and fifty thousand dollars. The buildings will be fire proof, and will contain eight hundred cells. The probable cost of the entire plan, as estimated, will be about four hundred thousand dollars, being nearly three hundred thousand

dollars less than the Auburn prison, New York. The commissioners also report thirty-four cells in a state of readiness for prisoners.

The loan authorized by the legislature for building the prison, has been negotiated, and the contract filed with the treasurer of the state. This appropriation was so limited that the commissioners were compelled to borrow additional funds, so as to have the buildings ready for occupation during the present year. Much labor and expense would have been saved the state, had the authority existed for transferring the convicts confined in the different counties to the state prison, where they might have been employed on the public works. I therefore call your attention to the enactment of a law conveying such authority. The acting commissioner, also, suggests the further appropriation of one hundred thousand dollars at your present session. This sum will cover the advances made the commissioners by the state deposite bank, will meet the estimate and contracts of the present year, and will complete one half the block of cells, together with the keeper's house. The whole subject is submitted to the legislature for their favorable consideration.

The judiciary department of the government, being one on which we must chiefly rely for a just and efficient administration of the laws, I must be permitted to call your attention to its present organization. The basis of our judicial system is laid by the constitution. It consists in one supreme court and such other courts as the legislature may from time to time establish. At the original organization of our state government, the judicial power was vested alone in a supreme court, the judges of which were required to perform the duties of circuit judges. That system exists at the present day; but from the increase of business in the different counties, and from original defects, it is rendered inadequate to the accomplishment of the ends designed by its institution.

One objection to the present organization is, that as the judges of the supreme court are required to review their own decisions, made as presiding judges of the circuit courts, the very natural and almost inevitable result must be, that it tends to lessen the public confidence in the administration of justice. The judges of the court of last resort, whose decisions in law and in equity are final upon matters of the greatest moment to individuals and the whole community, ought, so far as the law is concerned, to be placed beyond the liability of all suspicion or imputation. An additional objection to the present system is, also, that the proper business of the supreme court will very soon, if it does not now, require an amount of labor and diligence, which will occupy most of the time of the judges. Over and above its original jurisdiction, this court has appellate jurisdiction from the court of chancery, from all the circuit courts in criminal and civil cases, on writs of error, and from the courts of probate of the different counties. This must neces-

sarily bring before the judges many important and unsettled questions, and as the decisions in all such cases are final and conclusive, great labor and responsibility must be attached to the discharge of duties where the great leading principles of law are to be established which are to govern our citizens in all time to come, and to protect them in all their rights and liberties.

Satisfied, then, that our present judicial system is inadequate to the great ends for which it was established, I would recommend such an alteration as will lead to the organization of circuit courts as reported by the reviser of the laws at the last session of the legislature. This change will ensure the speedy administration of justice in the different circuits, and will leave the supreme judges sufficient time for study and mature deliberation. Three circuits would probably meet the demands of the public. In point of economy nothing would be lost in the change, for by confining the supreme judges to three in number, as well as the circuit judges, it is but the increase of two additional offices; and what is this, when balanced with the immense advantages accruing to the community, from having your judiciary at once placed upon a just and correct foundation. Whatever view the legislature may take of the subject, their speedy action on it is highly desirable.

I may here call your attention to the wretched manner in which criminal justice is administered in the different counties. From neglect and inattention, our criminal laws have become almost inoperative. The prompt and efficient execution of our criminal code, chiefly depends upon the exertions of the prosecuting attorney of each county. The inadequate compensation, however, which these officers receive, renders it impossible to secure their attention to the duties imposed upon them. I would recommend, as a remedy for the evil, if no constitutional impediment exists, that the state be divided into districts, and that an attorney be appointed for each district. Such a measure, if adopted, would elevate the office, as it would increase the compensation, and thus command higher legal attainments. The constitution provides, that there shall be a prosecuting attorney for each county, and the question will arise, whether this provision would prevent the appointment of the same individual for more than one county. My own opinions are in favor of the right of the legislature to make the contemplated change, but I refer the subject to your consideration. A report from the attorney general will also be submitted, embracing other amendments to the existing laws.

There is one subject connected with the duties of the philanthropic legislator, to which I beg leave to call your most serious attention. At repeated sessions of the legislature, I have earnestly recommended the total abolition of imprisonment for debt. This recommendation received

the sanction of two successive legislatures, the reviser of the laws was instructed to erase the system from his revision, and yet strange as it may appear, it still remains a blot upon your statute book. Imprisonment for debt has been entirely abolished, except in cases of fraud, in several of the states of the Union, without any inconvenience resulting to the administration of justice. In our own state, a modification has taken place, but still our laws leave the liberty of the citizen at the mercy of an unrelenting creditor, contrary to every principle of religion, humanity, and justice. If imprisonment for debt should be abolished at all, its total abolition is demanded; for the same considerations and principles govern in the one case as the other. My views on this absorbing topic, have been fully presented to the legislature in frequent Executive communications. The subject is again presented for your action, with the conviction that your regard for the happiness of the poor and unfortunate, your sense of what is due to the spirit of our free institutions, and the expanding philanthropy of the age, render further recommendation on my part unnecessary.

At the last session of the legislature important changes were made in our militia system, but no adequate remedy is to be found in the existing laws for the indifference and neglect with which this branch of our state polity is regarded. Under our guarded institutions, no substitute can be proposed for the militia amidst the sudden demands and exigencies of war. In the absence of a standing army, the citizen must be the defender of his country, and yet we find our militia, undisciplined, unarmed, and in many instances without even the mere forms of organization. Some additional stimulant must be offered to secure the efficient discharge of their duties by the officers, or the system may as well be abandoned. Your attention, therefore, is invited to the subject, as one worthy of your deliberations.

As a general rule, the tendency of all legislative bodies is to excess of legislation. That the world is governed too much, is almost as applicable to our own form of government, as to others less free. The spirit of our liberal system, however, repudiates all needless restraints upon the free actions of the people. Government should curb the natural right of the citizen only where the exercise of that natural right would conflict with the rights of others, or prove injurious to the community at large. And yet our legislatures are constantly adopting legislative rules to protect the people from themselves.

Amongst these numerous legal restraints, none are more useless and pernicious than our usury laws. The policy of interfering between citizen and citizen, as to the terms upon which one shall lend and the other borrow, should never be acknowledged. Leave the rate at which loans should be made between individuals, to the supply and demand of the

market. A different policy drives capital abroad, or induces it to seek other channels from ordinary loans for investment, increases the dependence on the banks, and above all, in its moral tendency, engenders a disregard for the solemn injunction of the laws. It is true, that by the revised code, our laws on this subject have been modified, but where a principle is correct, it should never be abandoned by a partial compromise.

In the same spirit may be regarded our auction laws. Why this restraint upon an ordinary and harmless pursuit of life? The right to make sales at public auction, should be left open to the community at large, and not be confined to the hands of a selected few. The state of New York has abolished the system. In addition to the monopoly created, the license you exact operates as an unequal and indirect tax. You create the monopoly and impose a license, as a source of revenue to the state, at the same time forgetting that the public are charged with this license by commissions on sales, at a rate enhanced by the absence of the competition in trade which you have prohibited.

It might prove a source of curious speculation to ascertain the indirect taxation with which the American people are charged. The very bread we eat, the clothes we wear, all the necessaries of life, every thing except the light of heaven and the air we breathe, are subject to these impositions in the shape of licenses, inspections or duties. The only method of raising the revenues of a republic should be by drawing them openly and directly from the people. They then know and feel what their burthens are. It need not ever be apprehended that they will not render freely what is necessary for the support of the government, according to a just and equal system of taxation. To suppose the contrary, is to contend that the people are incapable of self government. With such views, I am against all restraints or impositions upon the ordinary pursuits of the citizen, and consequently in favor of a repeal of our existing law relating to sales at auction.

By a joint resolution of the legislature, approved April 6, 1838, the governor of the state was instructed to obtain the opinion of some eminent jurist, touching our legal right to the district of country which has been in contestation with Ohio, and the best mode of prosecuting our claim thereto. The questions presented by this resolution were submitted to distinguished counsel, a copy of whose opinion accompanies this communication. It will be seen that they are of opinion, that the state and people of Michigan are bound by the assent to the terms of their admission into the Union, as given by the convention of January 6th, 1836; that the alteration in the northern boundary line of Ohio, has now been made by the "common consent," required by the ordinance of 1787; and that Michigan has no remedy left her, known to the constitution and laws

of the land, by which she can lawfully disturb the boundary line as now settled.

Amongst the various important questions of public interest which claim your attention, none can be more completely identified with the prosperity of our country than that of the abolition of slavery. In our own state, slavery is prohibited by its constitution, nor does there perhaps exist amongst ourselves a difference of opinion as to its pernicious consequences to the rapid advancement and permanent prosperity of a community. But whatever may be our opinions as to the abstract question of slavery, its existence as a state institution, is acknowledged by the federal constitution and the laws of the land. In the spirit of conciliation and fraternal feeling, which actuated our fathers in the establishment of our confederacy, the rights of the southern states in their slaves, were guaranteed and secured. A federal union could have been formed on no other basis. And yet, a portion of the people of the north, regardless of these considerations, and of their obligations as parties to the federal compact, are, in a spirit of misdirected philanthropy, engaged in efforts, which, could they be successful, would subvert the domestic institutions of their southern neighbors.

This disregard of every consideration due from one portion of the Union to another, must be lamented by every friend of his country. It tends to disturb the relations created by the federal compact, and is at war with its spirit and designs. But as our free institutions are opposed to all restraints upon the liberty of the press, we can only appeal to the patriotism of our citizens in asking them to abandon the agitation of a subject, which, unless checked, must endanger the union of the states.

It also becomes my painful duty to call your attention to the occurrence of recent scenes of violence and disorder on our own frontier, which have unfortunately disturbed our friendly relations with a neighboring province. The revolt in the British provinces of Upper and Lower Canada naturally excited the sympathy of our citizens, and aroused that spirit of freedom which has ever characterized the American people. It is to be regretted, however, that these feelings should have led any portion of our citizens into an open disregard of the laws of their own country, into a contempt for national faith, and into a violation of our neutral relations with a foreign power with whom we are at peace.

With the declaration of opinions, or the exhibition of sympathy on the part of our citizens for any people struggling for the rights and privileges which we enjoy, our government has no right to interfere, nor will it, it is believed, ever claim such a right. But our citizens have not rested here. We have unhappily witnessed on our soil, the embodying of an armed force, and the hostile invasion of the dominions of a power

with whom the United States are upon the most friendly relations. There is a rank due to the United States amongst the nations of the Christian world, which can only be maintained by preserving inviolate her obligations with foreign powers. If the good sense, patriotism, and returning reason of those of our citizens who have been temporarily misled, will not induce them to refrain from the repetition of the scenes we have passed through, the strong arm of the law must protect from blemish the heretofore spotless reputation of our government. In the execution of those laws, it is trusted and hoped every American citizen will always be found rallying to their support. If otherwise, and the laws of our own adoption are trampled upon with impunity, there is an end to our institutions.—We admit to the civilized world, that the American people are unfit for the privileges of self-government, and afford to the advocates of arbitrary power, the proudest triumph the world has ever witnessed. But I feel that our obligations to abstain from interfering with the domestic institutions of a foreign government, will be fully acknowledged by the people of Michigan; and let me enquire of many of those patriotic citizens, who are foremost in enforcing these obligations, if the same are not binding in our relations with sister states and fellow countrymen.

I have thus, fellow citizens, presented to you such views as have occurred to me, as being worthy of your consideration. The present, in all probability, is the last occasion I shall have of communicating with the representatives of the people of Michigan, and I cannot refrain from **an expression** of gratitude to the great body of my fellow citizens for the repeated manifestations of favorable regard they have extended to me. Though sensible that my exertions have not met with the success I could have wished, yet I trust they will be considered as having been directed by an earnest desire for the public good. And if my official relations to the people of Michigan have been attended with any injurious consequences to their interests, I am consoled by the persuasion that those evils will find their corrective in the patriotism of the legislative branch of the government, and in the wisdom of those who may succeed me. For the present, it only remains for me to give the assurance of my zealous co-operation in the accomplishment of every measure which will add to the happiness or promote the prosperity of our constituents.

STEVENS T. MASON.

January 18, 1839

From *Journal of the House of Representatives*, p. 78

To the House of Representatives:

I have received the resolution of the House, "requesting the Executive to communicate any intelligence in his possession relative to the confirmation of lands north of Grand river, selected by the State agent for university and other purposes."

A statement of the lands in question, was transmitted to the General Land office, at Washington, at the time of their location by the State agent. In consequence, however, of the passage of a joint resolution at the last session of the Legislature, authorizing John Mullett, Esq., to review the locations, no demand has thus far been made by the Executive, upon the Secretary of the Treasury, for their confirmation, neither has any communication been received from that office on the subject, since the adjournment of the last Legislature.

S. T. MASON.

February 27, 1839

From *Documents Accompanying the Journal of the House of Representatives*, pp. 721-728

(B.)

Answer of Stevens T. Mason to Interrogatories of the Committee:

1. *To first interrogatory of the committee*—I answer, that it will be recollected a loan of one hundred thousand dollars was negotiated at an early day in the history of our state, for the current expenses of the government. I call the attention of the committee to this loan from the fact that as it was negotiated through the agency of Mr. John Delafield of the city of New York, I was induced, on the passage of a law authorizing a loan of five millions of dollars for purposes of internal improvement, to apply to Mr. Delafield for his assistance, the former loan having been made payable at his bank, and he then acting as agent of the state in the payment of interest, &c.

Accordingly, on the passage of the law authorizing the five million loan, I visited New York in the spring of 1837, and held personal interviews with Mr. Delafield and other capitalists of that city. The embarrassments then existing in the money market, soon convinced me that no negotiation or sale of state stocks could be made at that period. I returned home, leaving a copy of the loan law with Mr. Delafield, and authorizing him to correspond with capitalists, at home and abroad, on the subject of the loan. In the autumn of that year, Mr. Delafield

advised me, that after diligent and earnest inquiry, he was satisfied no portion of the loan could be negotiated unless the interest on the stock was increased to six per cent, and both interest and principal made payable in Europe; that in the event of such an amendment of the law, Mr. James King, of the House of Prime, Ward and King, who was about visiting Europe, would take charge of the loan, and give his personal attention to it. The amended law, and three hundred thousand dollars of bonds, were transmitted to Mr. King, in London. Mr. King's efforts to effect a sale in Europe were unsuccessful, for reasons stated by him in a communication before the committee. Mr. Delafield in the mean time, having agreed to advance to the state one hundred and fifty thousand dollars under the expectation that Mr. King would succeed in his negotiation, drafts were drawn on him for the amount: ninety thousand dollars in favor of the Michigan state bank, and sixty thousand dollars in favor of the Bank of Michigan. The premium was paid to the credit of the sinking fund. Mr. Delafield, however, contrary to my expectations, met my drafts by bills drawn on the Barings of London. The amount of these bills I had to transmit to London, and the rate of exchange having gone up, contrary to all expectation, the premiums paid for the foreign bills about cancelled the advantages in the original drafts drawn on Mr. Delafield. The purchase of these bills explains the item of ten thousand three hundred and ninety-seven dollars and seventy cents paid Prime, Ward and King, as stated by the Treasurer. The amount of six hundred and thirty-nine dollars paid J. Delafield, was for postage paid in transmitting bonds to London, printing bonds, &c. as will appear by the vouchers filed with the Treasurer. No commissions for services were either paid to Mr. Delafield or to Mr. King. This statement closes the transactions with Mr. Delafield.

Again. Previous to June 1st, 1838, I sold to Oliver Newberry, Esq., five hundred thousand dollars of bonds on a written contract and security. Mr. Newberry paid two hundred thousand dollars on this contract, together with the premium of six per cent. A portion of his stock was sent to Europe, but returned, no sale having been made. The two hundred thousand dollars sold, was purchased at an average rate of about ninety-five cents on the dollar. I think Mr. Ward informed me that part was sold as low as ninety-three cents on the dollar. The remaining three hundred thousand dollars was returned by Mr. Newberry, and is included in the contract with the Morris canal and banking company.

I also, on or about the 8th of May, 1838, entered into a contract with E. R. Biddle, Esq., in behalf of himself and friends in Philadelphia, as alleged by him, for the entire loan at par. Eighty thousand dollars were paid down at the time of closing the contract, but after waiting

until the last of the month, I was compelled to surrender the contract in consequence of the inability of Mr. Biddle to consummate his arrangements so as to meet his payments.

The above statement concludes all contracts made previous to June 1, 1838.

2. *Answer to the second interrogatory*—I answer, that I did conclude a contract with the Morris canal and banking company, with a view of obtaining a loan for five millions of dollars, for the state of Michigan; that said negotiation was consummated in the city of New York on the 4th day of June, 1838, and that such negotiation did terminate in a positive agreement, as will appear by the documents transmitted to the legislature. In further answer to the interrogatory, I would state, that by the terms of the contract the Morris canal and banking company were to negotiate for the state of Michigan the entire five millions of stock, and to guarantee to the state the different instalments, whether they were put in funds from a sale of the stock or not. For this guarantee a commission of two and a half per cent was allowed; but in the event of a sale above par, the premiums were to be divided until the par value of the stock was realized to the state;—the reason for making the agreement as an agency, was from the fact, that the company were satisfied the first sale, if not the entire amount of stock, must be for less than par, and that they could not encounter the risk of so large a contract for less than the commission stipulated. This belief was induced by the rate of the stock market abroad, and from the knowledge that all the stock issued by the state to private companies had sold at less than its par value. The company were to pay for the stock at the rate of one million per year, in quarterly instalments. For the first year their own notes were to have been received and disbursed by the state; for the subsequent years, drafts were to be drawn for the different instalments at sight. It will be seen, however, by the documents before the legislature, that an agreement was entered into between the Morris canal and banking company and Mr. Norton, as my agent, for drafts at ninety days for the first year's instalment, instead of disbursing the notes of the institution; this modification was made in consequence of the risk in transporting the bills of the company, and from a sincere desire to relieve our commercial interest at home by throwing exchange into the hands of our banks. These drafts were offered to the banks of the city of Detroit, on the conditions that they would pay out their own paper, or such other paper as they would make equal to cash at their own counters, and the proposition was rejected by all but the Michigan state bank. For a more minute detail of the contract with the Morris canal and banking company, I refer the committee to the documents accompanying my annual message, and printed

by order of the legislature. The Morris canal and banking company was the only party recognized in the contract, although I was informed that the Farmers' loan and trust company of New York, and the Rothschilds of Paris, by their agent, Mr. Belmont, were parties.

3. *Answer to the third interrogatory*—I answer, that on or about the eighth day of June, 1839, I received from the Morris canal and banking company their notes to the amount of one hundred and ten thousand three hundred and ninety-seven dollars and seventy cents—the sum of ten thousand dollars and seventy cents was the balance of the first cash payment of two hundred and fifty thousand dollars; the sum of one hundred thousand dollars was part of the subsequent August instalment. This sum of money was received at their banking house, placed in a trunk, and the trunk delivered into my possession.

4. *Answer to the fourth interrogatory*—I answer, that I received the sum of one hundred and ten thousand three hundred and ninety-seven dollars and seventy cents, as above stated.

5. *Answer to the fifth interrogatory*—I answer, that on my arrival at home a deficiency of four thousand six hundred and thirty dollars in the sum of money delivered to me by the Morris canal and banking company was discovered, and will here state fully all the circumstances attending the loss, as seems to be desired by the committee.

In the first place, I must state that I am unwilling to express my opinions or suspicions, where no positive testimony exists. I neither accuse or acquit any one interested. Each individual concerned must take care of his own reputation.

The bills were counted in part at the banking-house in Jersey city, and the remainder at the agency in New York; they passed through the hands of several different clerks. I did not count them myself, from a belief, that clerks accustomed to count money would be more correct in counting so large an amount of bills. After being counted and placed in packages, the amount of each package was marked on the band of paper around it, and for fear of robbery on the journey to Detroit, each bill was stamped in red on the back; the ends of each package were left open. A trunk procured for me by Theodore Romeyn, Esq., was sent to the bank, and the packages were placed in the trunk. The package of ten thousand three hundred and ninety-seven dollars and seventy cents being for immediate disbursement, was placed on the top: the trunk was locked and delivered to me, the key never leaving my possession until I reached Detroit.

I received the trunk about 8 o'clock in the evening and immediately conveyed it in a carriage to the Astor house. It was left in the public bar under the charge of the book keeper, and near his desk, whilst I was at tea. On my return from tea, I found Mr. Romeyn standing in

the bar, and enquired if he would remain at home that evening, as I was going out. He replied in the affirmative, and I requested him to take the trunk to his room for safe keeping until my return. I returned home between eleven and twelve o'clock, supped, and then went to Mr. Romeyn's room for the trunk; found it there and Mr. Romeyn at his table, writing. I unlocked the trunk, placed in it different articles belonging to Mr. R., and then had it conveyed to my own room. I there placed in it some additional articles of my own, locked it and strapped on the top of it an overcoat. I did not leave the room again that evening. It is perhaps due to Mr. Romeyn, that I should say, that he, on several occasions, spoke of leaving the city for home without me, and that I requested him to remain, that I might have his company on my return; and further, that when I requested him to take the trunk to his own room he expressed an unwillingness to do so, as he did not desire any of the responsibility of the charge of the money.

On the next morning, after receiving the trunk, I left New York in the six o'clock boat; the trunk was not out of my sight more than ten minutes, and then under the lock of my room until it was placed on board the Albany boat. When on the boat, I requested Mr. Romeyn to have it placed in the Captain's office, having attached his name to the trunk. My reasons for identifying the trunk with Mr. R., as well as the reason for requesting him to purchase it, was, that as it was generally known I was negotiating a loan in New York, I might be followed for the purpose of stealing the trunk on the road home. At Albany the trunk was kept in my room, and when I was out I had the key of the room in my possession. I was in Albany one evening. Between that place and Utica, it was under the lock of the baggage car. From Utica to Syracuse it was in front of the stage under the driver's seat. We left Utica about 4 o'clock in the afternoon and reached Syracuse at about one or two o'clock in the morning. At Syracuse it was not out of my keeping. From Syracuse to Oswego it was on the deck of the canal boat for about half a day. At Oswego for one afternoon, it was under lock in my room. From Oswego to Niagara it was in the office of the Captain of the boat for one night. From Niagara to Buffalo it was on the top of the railroad car, and I rode on the outside in the night with it. At Buffalo it remained in my room under lock. On Lake Erie it was placed in the Captain's office and delivered to me at Detroit. When I arrived at home I took from the trunk the articles belonging to Mr. Romeyn and myself, and delivered it to the Treasurer. At no time on the journey was the trunk opened by me, nor could I at any time observe that the overcoat on the top had been moved. On opening the trunk at home, everything seemed to me as I had placed them. The package of ten thousand three hundred and ninety-seven dollars was on the top, as I had placed it, and was

immediately delivered to the Treasurer as part of the cash payment, counted by him, and found to be correct.

6. *Answer to the sixth interrogatory*—I answer, that the Treasurer gave me a receipt for the entire amount contained in the trunk on my arrival at home, he counting at the time only the package of ten thousand three hundred and ninety-seven dollars and seventy cents, and at the time depositing the whole in the Michigan state bank. Some days subsequent, I think at my suggestion, he concluded to count the one hundred thousand dollars of the August instalment, and found in the different packages of fives, tens and twenty dollars, the amount of four thousand six hundred and thirty dollars abstracted. I would also state that the trunk was delivered to the Treasurer on the morning of my return home.

7. *Answer to the seventh interrogatory*—I answer, that the statement marked A. is a true copy of my letter to Edward Biddle, Esq., notifying him of the abstraction. This letter was written immediately after the entire amount of the loss was ascertained, and a statement of that loss prepared by the Treasurer. On enquiry at the post office, I found the mail of that day had closed; and anxious to lose no time in notifying the Morris canal and banking company of the abstraction, so that the first note presented at their counter might be traced, I first determined to place my letter on board the boat to be mailed at Buffalo but subsequently meeting Mr. Lee of Troy, New York, whom I had known for some years, I handed the letter to him, with a request that he would mail it at Albany, he having informed me he would go through as fast as the mail. I have not seen Mr. Lee since, and know not by what agency it was mailed to New York, but presume, as I informed him of the importance of its reaching New York without delay, he sent it by the first North river boat after his arrival at Albany.

8. *Answer to the eighth interrogatory*—I answer, the remaining notes were sealed up and placed in the vaults of the Michigan state bank, to be returned to New York, but as the Morris canal and banking company insisted that they should be transported at the risk of the state, they were never returned, and have been paid to the Treasurer of the state in December last.

9. *Answer to the ninth interrogatory*—I answer, that they were receipted for by the Treasurer as the January and February instalments on the loan, and were delivered to him about the last of December, 1838.

10. *Answer to the tenth interrogatory*—I answer, that the notes were paid into the state deposite bank, as I believe, by the Treasurer, as a part of the internal improvement fund. The notes abstracted were, with the exception of fifty dollars of the denomination of \$10, returned to the Morris canal office through the post office in the city of New York, but no information has ever been received as to who placed them there,

although every effort has been made to ascertain the fact. The amount returned was drawn for by draft, and explains my draft for four thousand five hundred and eighty dollars in the Treasurer's statement. The fifty dollars not returned, was paid by me to the Treasurer, and explains my check as stated by him for that amount.

I beg leave to state, although not interrogated to that effect, that I have not received one farthing's benefit by or on account of the loan, either directly or indirectly, in any shape whatsoever; that I expect to receive none, and that in no transaction growing out of the loan or any other act as governor of Michigan, have I been or am I to be benefited beyond the simple salary of my office.

11. *Answer to the eleventh interrogatory*—I answer, as well as I now recollect, Mr. Biddle, vice-president, Mr. Gibson, cashier, Mr. Romeyn, and Messrs. Murray and Griswold, directors, were present—that Mr. Romeyn was present, I am certain.

12. *Answer to the twelfth interrogatory*—I answer, that Mr. Romeyn was present during the marking of the notes, and of course knew that each note was stamped.

13. *Answer to the thirteenth interrogatory*—I answer, that at no time, either in New York or elsewhere, did Theodore Romeyn draw a check in my favor on the Bank of Clinton for \$10,000; but that in July last Col. Murray, a director of the Morris canal and banking company, with Norton, called on me and presented a check drawn by Mr. Romeyn on the Bank of Clinton for \$10,000 and accepted by Mr. McClure, the cashier of said bank. Col. Murray stated that he was anxious to place the amount in New York, and that if the state would collect the check, he would take a draft at one year on the Morris canal and banking company. I received the check and gave it to Mr. Norton for collection on the part of the state. At the same time Col. Murray gave me an agreement that in the event any difficulty occurred in the collection of the check, the whole matter should be cancelled and my draft returned. Some time after, and before the check was paid, an injunction was placed on the Bank of Clinton, and as the check could not be collected, my draft was returned. My only object was to aid Col. Murray, who had been greatly instrumental in assisting my negotiation in New York, and more particularly as this could be done without prejudice to the state. In fact the state would have had the use of ten thousand dollars without interest for one year, had Mr. R's check been collected, and therefore no objection existed in my mind to the arrangement proposed by Col. Murray.

It will also be recollected by the committee that much has been said concerning my unwillingness to publish my contract with the Morris canal and banking company. I did not feel authorized to make public

this contract without the authority of the company, and I have to request of the committee that the accompanying letter from one of our Senators in Congress may be made a part of their proceedings, as an act of justice. I will further state, to correct any erroneous impression that may exist, that no amount, by draft or otherwise, has been placed in the hands of Mr. Norton or the bank of which he is cashier, on account of the five million loan, beyond the \$1,300,000, as stated by the Treasurer in his report to the legislature; and that any arrangement Mr. Norton is now making in New York for the benefit of his bank, is unconnected in every respect with the credit of the state or its loan.

S. T. MASON.

Sworn and subscribed before me this 27th day of Feb. 1839.

D. S. BACON, Ch'n pro tem.

March 11, 1839

From *Journal of the Senate*, p. 252.

To the Senate:

In answer to a resolution of the Senate of the ninth instant, I would beg leave to state, that no drafts have been drawn on account of the March and April instalments of the five million loan. It will be recollected by the Senate that the commission of two and a half per cent will make the stock par less one hundred and twenty-five thousand dollars; this sum, it will be seen, absorbs the whole of the March and part of the April instalments. The balance of the April instalment, after settling the account of interest for the year one thousand eight hundred and thirty-eight, will be subject to the order of the state of Michigan by draft at ninety days from the first of the ensuing month. The remaining three million seven hundred thousand dollars will be payable in quarterly sums of two hundred and fifty thousand dollars, from the first of July, one thousand eight hundred and thirty-nine.

S. T. MASON.

April 12, 1839

From *Journal of the Senate*, pp. 395-396.

To the Senate:

In answer to a resolution of the Senate of the eleventh instant, I beg leave to state, that there has been no special contract existing with the Ypsilanti and Tecumseh railroad company, for the payment of the

moneys arising from the sale of the state bonds, sold for the benefit of that company. But that in negotiating the state loan of five millions of dollars, provision was made in the instalments of the first year for the amount due the Ypsilanti and Tecumseh railroad company, and they were so notified for instance, the amount to be paid on the loan for the first year, was one million three hundred thousand dollars; the appropriations on the state work for the same period, were one million and fifty thousand dollars, leaving a balance of two hundred and fifty thousand dollars on the instalments, from which the Marshall, and Allegan, and Tecumseh, and Ypsilanti companies were to be paid the amount authorized by law.

S. T. MASON.

April 17, 1839

From *Journal of the House of Representatives*, pp. 558-561

To the House of Representatives:

I return with out my signature, to the House in which it originated, a bill entitled "An act for the relief of certain settlers on university and State lands." In refusing my sanction to the provisions of this bill, I am governed by an imperious sense of public duty, urged upon me by the solemnity of my official oath. The determination I make, is a painful one. It has been framed, however, after mature and anxious deliberation, and cannot be resisted.

The ostensible object of the bill, is to secure to certain settlers on public lands, their just right under the pre-emption law of Congress, which it is alleged have been interfered with by the State. Does the bill meet the object intended, and are its provisions limited to the designs of the Legislature?

I will not permit myself to inquire into the equity of the claims of these settlers. I do not stop to ask, how far the eager hopes of the people of Michigan in an institution fraught with benefits to thousands yet unborn, are crushed by the measure proposed to me. The pre-emption law was framed for the protection of the bold and daring pioneer, who leads the march of civilization, and proclaims to the world the unknown beauties and hidden resources of our western wilderness. For the protection of such men, was the law designed, and if the applicants under the bill before me, are entitled to the right of property in the lands in question, not even for the holy purposes of education, should that right be disturbed. How far then these claimants come within the spirit and intentions of the legislation of Congress, I leave the Legislature to determine. To the representatives of the people properly belongs the decision of all

such questions. Appreciating as they ever should, the high interests committed to their charge, I am bound to believe, that such claim, under this bill, has undergone the most rigid scrutiny, and that none other save a disinterested sense of justice, an anxious desire to protect the rights of the citizen, and a high sense of what is due to the character of the State and our institutions, could have induced your sanction to the measure proposed by the bill before me. If then a mere question of expediency was involved in the bill, it might become my duty to yield to it my unhesitating assent. But my solemn convictions sanction no such conclusion.

By the first section of the bill, you propose to sell at \$1 25-100 per acre, *any lands located for university purposes*, if it is proven they were occupied and cultivated as pointed out by the pre-emption law of Congress, before their location by the State. Where is the necessity for this unlimited provision, releasing all lands located for university purposes, whether heretofore claimed by individuals or not? What is the object of this wholesale temptation to fraud and perjury? The applications before you, have emanated from that highly respectable class of settlers whose rights are affected by the locations on the Niles and Notawassippi reservations, and on the Grand and Muskegon rivers. The relief asked by these claimants, should have been extended to them wherever their claims were found to be meritorious. I am anxious to afford that relief, and I regret that their rights have been jeopardized by a wholesale species of propagandism in search of adventurers to claim your public lands.

The Congress of the United States "have granted and conveyed these lands to the State, to be appropriated *solely* to the *use and support* of the University of Michigan." The State has accepted these lands, and the Constitution enjoins, "That the Legislature shall take measures for their *protection and improvement*, and also provide means for the *permanent security* of the funds of the institution." These are the solemn conditions by which the State holds this sacred trust; and yet by one single enactment, you place all the lands thus held in trust, in market, at \$1 25-100 per acre, no matter what their value, when located or how claimed. Yet it may be said, they are protected by the provisions of the bill from all illegal claims. What is that protection? The feeble barrier of an oath, held out with a bribe and reward for its violation by bad and wicked men. Can this be a faithful administration of the trust committed to us? Is it the appropriation of these lands *solely to the use and support of the University of Michigan*, as required by the compact with the United States, or their *protection and improvement*, as enjoined by the Constitution?

But the second section is still more fatal to this bill. You there propose to *sell* at \$1 25-100 per acre, "*any State lands of this State.*" What

are the lands thus contemplated to be sold? Lands for the erection of public buildings, and lands attached to the State salines. These lands are donations under the propositions of Congress at the time of the admission of the State into the federal union, and were accepted by the ordinance of July 25, 1836. This ordinance is declared "*to be irrevocable without the consent of the United States,*" and by the express terms of the grant, as confirmed by the ordinance, the salt springs and lands attached "*are granted to the State for its use alone; they are to be used on such terms as the Legislature may direct, and shall never be sold or leased for a longer period than ten years, without the consent of Congress.*" It is clear then, that the bill before me is palpably unconstitutional, and cannot receive my sanction, without a reckless violation of my official oath.

By this decision, I am not unmindful of the responsibility I assume; nor am I forgetful of the wrong I may inflict on some meritorious claimant. I therefore regret that the bill is so general in its features. To a constitutional measure of relief, my sanction would be readily given. If the Legislature in their wisdom will propose a remuneration to the claimant from the general fund, either in money or by the purchase of other lands, or by any other mode which will remove the unconstitutional features of the present bill, it will be my duty to sanction it. My present objections do not arise from hostility to the claimants, but from insuperable objections to the mode pointed out by the Legislature. Every personal feeling and sympathy are with the advocates and friends of this measure. My first impulse would lead me to give it my sanction. But the convictions of my judgment and my oath, warn me to yield to no such temptations. I know the personal consequences that are to flow from this act. I am aware how little I gain and how much personally I may lose. But in the conscientious discharge of my official trust, those considerations shall never control me. I perform a duty I owe to myself, and I leave the result to a liberal and enlightened people.

S. T. MASON.

April 20, 1839

From *Journal of the Senate*, p. 513.

To the Senate:

I have received, and return without my signature, a joint resolution entitled "A resolution relative to the central railroad."

The importance of the measure proposed is such as to require more grave consideration than is allowed the Executive department at this

late hour of your session. Whilst a bill is pending, and has passed one branch of the legislature, providing for the purchase of a railroad as a matter of public interest, it seems to me that the measure contemplated by the resolution before me requires mature deliberation, before my sanction is given to a proposition leasing to individuals the most important public work of the state of Michigan.

S. T. MASON.

1840

January 7, 1840

From *Detroit Free Press* of Jan. 7, 1840

Fellow Citizens of the Senate and of the House of Representatives:

In the constitutional exercise of a power delegated to the Executive, I feel myself, not only authorized, but required by the most solemn of obligations, to submit to you the condition of the affairs of the State during the year which has just terminated. From a feeling of courtesy, due my successor, it had been my original determination to withhold the annual communication from the Legislature at their present session. But on more mature deliberation, I have conceived it due myself, as well as respectful to you, that I should meet you on the present occasion. In this conclusion, I am happy to say, I have the entire and cheerful concurrence of the officer elect, who is about to assume the duties of the Executive branch of the government.

The annual assemblage of the Representatives of the people, is an occurrence of no ordinary interest and magnitude. It is the embodied will of the people, brought together for purposes of public good; and I wish, fellow citizens, most heartily, that I could meet you under auspices better calculated to realize the favorable results from your deliberations, which our common constituents seem to expect and desire. Yet, there is no just reason to despair. On the contrary, notwithstanding the heavy pecuniary embarrassments common to other parts of the Union, as well as our own, there is much cause of congratulation; and we stand rebuked before the Giver of all good, when we forget our acknowledgments for the many blessings he has secured to us as a people. In spite of the waywardness and neglect of man, we continue to be favored with all the elements which contribute to individual and to national prosperity.—In the survey of our extended country, we find, we have been blest with plentiful and abundant harvests. Whilst other portions of the Union, have been visited by disease and death, the protecting arm of Providence, has shielded and preserved our people in the full and unexampled enjoyment of health. In our civil and political relations, we have peace without and tranquility within our borders; and above all, we have still secured to us the high and inestimable privileges of a free government. It becomes us, then, setting aside all local differences, and political contentions amongst ourselves, to receive with grateful hearts the beneficence and bounties of Heaven, and to apply them with unwearied hands to the advancement of the public welfare.

This message was "delivered," but not allowed to be read before either house.—Ed.

I wish it were in my power, fellow citizens, to give you a more flattering account of the financial condition of the State. By a reference to the report of the Auditor General, closing with the past fiscal year, it will be seen, that whilst the receipts from all sources for the general and ordinary support of the Government, have been one hundred and forty-four thousand two hundred and seventy dollars thirty-three cents, the expenditures for general purposes during the same period, under appropriations by the Legislature, have been one hundred and sixty thousand three hundred and sixty-eight dollars ninety-two cents, leaving a balance against the Treasury of sixteen thousand and ninety-eight dollars fifty-nine cents. It is to be deeply regretted, that this excess of expenditure should have occurred; but at the same time, its character, and the causes which have led to it should be impartially and fairly enquired into.—It must be recollected, that we have been engaged in all the incipient and necessary measures incident to the organization of a new and youthful State. The expenditures, as made, were under the directions of the representatives of the people, and not by the fiat of any one department of the government. You will find from the earliest period of our State organization, the continued and urgent recommendation of economy and frugality in our expenditures. It was again and again represented, “that as all the ordinary charges of the government must be met by taxation upon the people, a wise system of legislation would abstain from the imposition of that burden, beyond the absolute wants of the government;” that it was, “our duty, to substitute a rigid economy, in the place of taxation, and to refrain from all expenditures not absolutely demanded by the interests of the public.” Such have been the oft expressed sentiments of one branch of the government, and no one can deplore more deeply than myself any departure from their most rigorous exaction.

But, fellow citizens, this statement of the condition of our finances, is not such, as to forbid the hope, that a corrective to the evil is at hand. Whilst to others is assigned the duty of collecting the public revenue, its safe keeping and appropriation, is happily committed to you; and the opportunity is now placed before you, of rendering essential benefits to your constituents by an extensive and wholesome reduction of your appropriations. For some years past, the expenditures of the Legislature, have been based rather upon extraordinary, than the ordinary expenses of the government. You can now retrench yourselves within the ordinary and usual sphere of state legislation. Your code of laws has been revised; your public lands have been located; the geological survey is near its completion; the destructive system of legislating for sectional interests and local purposes, has received its doom; and the fatal and conflicting claims of different sections of the country for surveys and rail

roads have been fortunately quieted. Under such a state of things, you may, to a great extent, confine your appropriations to the ordinary support of the government, and with a proper regard to the general good, restrict the period of your session, so as to curtail an expenditure, which has, heretofore, fallen but little short annually of fifty thousand dollars.

By the estimate which the proper officer will lay before you, you will be possessed of the probable wants and resources of the government for the present year. From that estimate it will be seen, that the charge against the Treasury for the year eighteen hundred and forty, is stated at one hundred and thirty-two thousand nine hundred and forty-seven dollars. This amount, includes the item of twenty-seven thousand six hundred and fifty-two dollars, the deficit in the receipts of the Treasury for the years eighteen hundred and thirty-eight and thirty-nine. The receipts for the present year, are also estimated and stated, at one hundred and thirty-eight thousand three hundred and seventy dollars.—Thus it will be seen, that under the present basis of taxation, if the receipts calculated upon are realized, the Treasury, under the credit of its general fund, will meet the public wants for the present year, cancel the deficit of former years, and leave a balance on hand of five thousand four hundred and twenty-three dollars.

But, fellow citizens, it is expected, that this estimate is higher than will be demanded under your prudent and economical system of legislation. The reduction of all salaries, the abolition of every useless and unnecessary office, and a short session for your deliberations, it is confidently believed, will so reduce the wants of the government, and restrict the demands upon the Treasury, that at the close of the present year, the people will be justified in demanding the reduction of our taxes for State purposes, far lower than their present rate. Such a consummation is not only desired, but expected by all classes of your fellow citizens.

Can we, then, with such hopes and expectations, suffer ourselves to despond for one moment? We have a country vast and fertile in its resources; we have peculiar and striking advantages for commerce; and a population intelligent and laborious. The cause for the destruction of our credit and the depreciation of our State character abroad, no longer exists amongst ourselves; and the return of cool reflection and calm moments, will enable us to unite in our exertions for the elevation of Michigan to the proud standing which she justly merits. Many a paricidal arm has been raised against her fair name. For unholy purposes, she has been derided, as broken in resources, bowed in spirit, and overwhelmed with taxation. The emigrant desiring a residence within our borders, has been driven elsewhere by the war-cry of destruction amongst ourselves. Yet, if there is one duty from us, higher than another, it is, to assert and defend the youthful fame of our dawning, but rising com-

monwealth. When she is charged with want of resources, point to her fertile fields and abundant harvests; when she is thought to be broken in spirit, look to the energy of her armies of husbandmen; and when she is said to be burthened with taxation, refer to your statute book, and ask how limited is her taxation when compared with that of neighboring and sister States.

This, fellow-citizens, is no idle fiction. It is a reality, which every inhabitant within our borders can see and know. But still, there is much for you to accomplish. Revise carefully and rigidly your laws regulating the assessment and collection of taxes. Our State tax at present is fixed at two and a half mills on the dollar.—It is not, however, from this source, that complaints have truly arisen.* In the general cry of excessive taxation, a proper and just discrimination has not been made, in determining the character of the taxes imposed. Little, if any, oppression has been felt from the imposition of the State tax proper. The heavy burden has arisen from the assessments for county and township purposes, taxes over which the State government has had no control, and for which it should not be held responsible. But more particularly, are the assessments for the erection of school houses, repairing highways, &c., a source of complaint in some parts of the State. These are charges, incident, and perhaps necessary, to the demands of a new country, and must diminish as the State becomes older. Yet it may not be unimportant, to revise this part of your system; for I am confident, in referring to the books of the Auditor General, that in some cases, both in reference to resident as well as non-resident lands, the assessments have been most unequal and oppressive.

By a resolution of the last Legislature, commissioners were appointed, to adjust the claims of the State against the late deposit bank. The commissioners will lay their report before you; from which it will be seen, they have failed to arrive at any satisfactory adjustment with the officers of that institution. The terms proposed by the bank, were such as to forbid their acceptance by the commissioners, without a compromise of the dignity and rights of the State. The balance due the State by this institution, is reported by the Treasurer, on all accounts, deducting overdrafts on the general fund, at four hundred and eighteen thousand nine hundred and ninety-five dollars, sixty cents. The security of this debt, is of great magnitude to the public interests, and as the subject will in all probability be brought before you at an early period of your session, I have directed your attention to it at this time, with the confident assurance, that you will strictly guard the rights of your constituents.

The officer at the head of the financial department, will submit to you a detailed and elaborate report in relation to our State loans. I cannot too earnestly call your attention to this report. The only loan of moment

with which the Executive was charged, was the loan of five millions of dollars for purposes of internal improvement. A full report of his proceedings, together with the investigation of a committee of the two Houses of the last Legislature, embraced all the information possessed on the subject. Since that period, no change has been made in the position of this loan; and as the negotiations for the year eighteen hundred and thirty-nine, were made a duty of the Auditor General, that officer, will present you his action in the premises.

Events which have transpired since the negotiation of this loan, have confirmed the conviction entertained at that time, that the rapid accumulation of State stocks in the market, would render future negotiations doubtful, if not impracticable. It was under such impressions, supported by the opinions of able and experienced financiers, and from an apprehension that your public works would be left in an unfinished and unproductive state, that a negotiation was concluded for the entire loan. No opportunity has since offered, by which a sale could have been effected, at as high a rate as the one negotiated. The security taken at the time, was considered ample by the country, nor can I yet believe, that subsequent developments, would justify the conclusion, that the payments to be made by the contracting parties will not be promptly met. I may here add, however, that should it be the policy of the Legislature to arrest all of our public works, it may not be unimportant, to make the effort to cancel some remaining portion of the outstanding contract on the loan; whilst at the same time, I am forced to believe, that the total abandonment of the entire system in its present unfinished state, would prove detrimental to the public interests, and in some measure curtail the revenue, which might be applied to meet the interest on the large amount of capital invested.

I trust I may be permitted, fellow citizens, again to call the attention of the Legislature to the magnitude of the stake, in the endeavor to preserve inviolate the credit and faith of the State. Every public consideration demands, that we should look to the prompt payment of the interest on our State loans; and the present embarrassment of the country, has doubly confirmed me in my views on this subject. At a previous session of the Legislature, I strenuously urged, "that no loan should ever be negotiated, without a provision being first made, for a ready and certain payment of the interest on the debt contracted, and for the redemption of the principal by a separate and distinct fund, set apart for that purpose." This precaution, will ever keep the State in safe and proper limits; without it, whatever temporary expedients may be adopted, our credit must sooner or later be irretrievably prostrated.

One of the heaviest and most important responsibilities thrown upon

you, in the progress of your deliberations, will be the review and regulation of your system of internal improvements. The Commissioners will present you, with a full and detailed statement of the condition of each work; and it will be for you to make such reformatations in the system, as the interests and wishes of your constituents may seem to demand.

The Central road has been placed under contract as far as Jacksonburgh, a distance of about seventy miles. The expenditures on this road, from May, eighteen hundred and thirty-seven, to December, eighteen hundred and thirty-nine, are reported at seven hundred and fifty-seven thousand and sixty-three dollars, including the complete survey of the entire route. The estimate of the Engineer for the completion of the work at Jacksonburgh, is stated at three hundred thousand dollars. At the present time, cars are running regularly between Detroit and Ann Arbor, a distance of thirty-eight miles.—From January to December, eighteen hundred and thirty-nine, the receipts on this portion of the road, have been sixty-one thousand one hundred and fifty-four dollars eighty-four cents, exhibiting a diminution from the receipts of the previous year of about twenty-four thousand dollars. The expenditures during the same period, for running cars, repairs to road, machinery, &c., have been forty-four thousand four hundred and fifty-one dollars, leaving a profit to the sinking fund, of only about sixteen thousand seven hundred and three dollars. It is, but just to remark, however, that the exhibit of the past year, is not a fair criterion by which to test the productive character of this work. The decrease in the trade of the country, is strikingly in contrast with that of previous years, and we have every reason to believe, that the progressive improvement in the condition of affairs, throughout the Union, will restore to Michigan her former participation in active commercial operations. The cost of repairs for the past year, have also been unusually heavy; the destruction of the Bridge over the River Rouge has thrown the entire western trade for the months of August and September in another channel; and it must also be borne in mind, that the portion of the road between Ypsilanti and Ann Arbor, was not completed until late in the past season. It is but reasonable then to expect, that the receipts on this road hereafter, may be calculated at a highly increased rate.

The Southern road, is under contract from Monroe to Hillsdale, a distance of sixty-seven miles, and is nearly, if not quite, completed, to the village of Adrian. Depot buildings have been erected at Monroe, on a large and extended scale, and all the necessary turn-outs and fixtures are in readiness for the cars. The second division of this road from Adrian to Hillsdale, is progressing gradually, and the contractors have generally made arrangements for the continuance of their work during the winter. The entire expenditure on this improvement on the first day of December

last, is reported at four hundred and seventy-five thousand five hundred and forty-one dollars, ninety-six cents; leaving a balance of the appropriations of seventy-four thousand four hundred and fifty-eight dollars unexpended.

On the northern road, the expenditure has been sixty thousand one hundred and twenty dollars, seventy-eight cents. This sum has been used in clearing and grubbing about one hundred and ten miles of the road between Port Huron and Lyons. The only grading let on contract, is a small portion of the route beyond the village of Flint. There remains an unexpended balance of the appropriation on this work, of eighty-nine thousand seven hundred and ninety-seven dollars, twenty-two cents.—The appropriation on the Havre branch road of twenty thousand dollars, is unexpended, with the exception of about nine hundred dollars.

Contracts have been let on the Clinton canal, from Mt. Clemens to Rochester, a distance of only sixteen miles, whilst the grubbing on the entire line is nearly accomplished. The materials for fourteen locks have been purchased, and the locks are in a state which will ensure their completion at an early day during the present year. A small portion of the embankments have as yet been made. The appropriations on this work have amounted to three hundred and five thousand dollars, from which sum, an expenditure has been made of one hundred and nine thousand six hundred and fifty dollars, eighty-eight cents. About five miles of the Saginaw canal has also been placed under contract, only one mile of which is entirely completed. On this improvement, there has been an expenditure of twenty-two thousand two hundred and fifty-six dollars, eighty-one cents. In the event that either of the above works should be temporarily arrested, for want of ability on the part of the State to continue them, or from other causes, some measure should be early adopted for the preservation of the materials now collected and on hand.

The improvements on the Grand and Kalamazoo rivers, have progressed with as much rapidity as the means at the command of the Board of Internal Improvement would permit. On the former river, the most difficult and expensive portion of the work has been accomplished, so as to open the navigation on this stream, during most of the year, with boats of a light draught of water, for a distance of about ninety miles. On the Kalamazoo river, about two-thirds of the work necessary to open the navigation from its outlet on Lake Michigan to the village of Allegan, is completed. The appropriations for improving the navigation of these streams, was thirty-eight thousand dollars, from which sum there has been an expenditure of twenty-six thousand and ninety dollars, fifty-five cents.

An appropriation of twenty-five thousand dollars, was made for the

improvement of the navigation of the St. Joseph river; but no expenditure, it seems, has thus far been made. The reasons which governed the Board of Internal Improvement in this course of procedure, will, I have no doubt, be laid before you, and I am equally sure, will prove satisfactory. And permit me, here, fellow citizens, to take the occasion to remark, that no portion of your system of public improvements has stronger claims upon the consideration of the Legislature, than that which opens the navigable streams in the interior of the State. They should be looked upon as furnishing the cheapest and surest channels, by which the immense resources of Michigan will find their way to the numerous commercial points on our extended lake coast.

A contract was entered into for the construction of the upper level of the Sault de Ste. Marie's canal, which, I regret to inform you, was interrupted by the unauthorized, if not unnecessary, interference of the authorities of the United States. This interruption has been attended with some loss to the State, and although subsequent instructions were issued by the War Department to the officer commanding at Fort Brady, the entire work under the original contract, was broken up for that year.

An immediate and energetic remonstrance was made to the President of the United States, against these proceedings of the federal authorities. The claim of a right to interfere with the States, in the construction of their public works, because they may happen to pass through lands or reservations of the United States, is an unauthorized and unconstitutional assumption of power, and should be met by resistance at the very threshold. No matter in whom the fee or right of occupancy of lands may rest, the jurisdiction over every acre of her soil, is claimed and protected by the sovereign power of the State. Michigan is admitted into the federal Union on an equal footing with the original States, in all respects whatsoever, and the United States, can exercise no exclusive right of sovereignty over her soil, except by her consent. Under the federal constitution, the exclusive jurisdiction of the general government within the limits of the States, is confined to places purchased by the consent of the Legislatures of the States in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards and other needful buildings. In the present case, there has been neither consent given or purchase made; and if the "mill race" of the United States had been affected by the construction of this great public improvement, a work so important to the commerce of the country, the federal government could only have had an equitable claim to indemnity by the State of Michigan, to be adjusted under her own constitution and laws. The reservation of lands by the United States, for military or any other purposes, vests in the federal government no authority to interfere with an important and needful exercise of jurisdiction by our own Legislature. A contrary

doctrine, if recognized, would at once strike a fatal blow at the independence and sovereignty of the States of the American Union. A spirit of comity should induce us to yield much in such an issue, to the views and interests of the national government, but not when claimed of us as a right; for all experience teaches, that power once surrendered is seldom if ever recalled. An assertion of the rights of your State, can, then, be but proper at your hands.

From this, and the previous reports of the Commissioners, you will be enabled, fellow citizens, to inform yourselves of the character and extent of the system of public improvements adopted by your predecessors. The appropriations thus far on all works, have amounted to two millions one hundred and eighteen thousand dollars, and the expenditures are stated at one million five hundred and ten thousand three hundred and fifteen dollars, twenty-nine cents.—Your system, however, is as yet in its infancy, and the different works authorized, are, as it were, but just begun. When, therefore, you cast your eyes over the present condition of the country, you may well pause and doubt the immediate success of your undertaking.

The reformation to be made, however, belongs to you as the Legislative branch of the government. The system owes its existence to no political feeling or partizan interest. Whatever of good, or evil, that belongs to it, had its origin with the representatives of the people.—The constitution made it the imperative duty of the Legislature, “as soon as may be, to provide by law, for ascertaining the proper objects of improvements, in relation to canals, roads and navigable waters;” and also “to provide for an equal, systematic and economical application of the funds that may be appropriated to objects of internal improvement.” At the session of eighteen hundred and thirty-six, the Executive called the attention of the Legislature to this injunction of the constitution, and urged the appointment of a competent engineer, whose duty it should be, under their direction, “to ascertain the most desirable and practicable works of internal improvement, and thus prevent the hasty adoption of useless, if not impracticable projects, as well, as direct the energies and resources of the State in such channels as would be productive of the greatest good to the greatest number of our fellow citizens.” Again, at the session of eighteen hundred and thirty-seven, he urged upon the Legislature, “that the surveys essential in legislating safely with reference to contemplated works of internal improvement, should be made during that year, so that at the next session, measures might be adopted for the immediate construction of such works as should be then designated and sanctioned;” “that without the estimates and investigations of competent engineers, no work of public improvement should ever be ordered;” and “that if this plan was not adopted, the State would be

"constantly liable, to the heavy charge of extravagant, unprofitable and "useless expenditures."

The result of the legislation upon these executive recommendations, was, after months of warfare, between conflicting local interests, a conference between the two houses of the Legislature, resulting in the unanimous adoption of the present system of internal improvements. No party action was brought to bear upon the subject; and the error, if error there is, was the emanation of that false spirit of the age, which forced States, as well as individuals, to over-action and extended projects. If Michigan has overtasked her energies and resources, she stands not alone, but has fallen into that fatal policy, which has involved in almost unparalleled embarrassments, so many of her sister States. Now, however, the period has arrived, when a corrective should be applied to the dangers which seem to surround her. Public sentiment demands your action, and I feel confident, that whatever may be the result of your deliberations, they will have an eye single to the public good.

The entire debt of Michigan, for which her securities have been issued, is five millions six hundred and eleven thousand dollars. In this amount, is included the State Stock, unwisely loaned to private companies. The loan of five millions of dollars, cannot be expected to complete your system of improvements, as at present authorized. The negotiations of a new and additional stock, may for years be considered impracticable, even if desired. It behooves you, therefore, to place whatever resources you may at present command, in that shape likely to prove most productive to the State; for it will require the most prudent and careful legislation, to prevent an ultimate appeal to direct taxation, to cancel the interest on your public debt. It is also well to look in time, and learn to depend upon our own abilities and energies, to meet the approaching crisis. The project now afloat, of funding the State debts, and for their assumption by the federal government, cannot, and should never be adopted. Congress has no right to take money from the federal treasury for such purposes; and if attempted, the effort must shake the Union to its centre. But even if successful in its adoption, the policy would be fatal to the independent character of the States. A precedent would be established, by which extravagant expenditures would be stimulated with the States, reducing them to the condition of mere stipendiaries on the favor of the federal government, increasing and encouraging their indebtedness to foreign powers, and ultimately making us, whilst we boast of our freedom, a nation of slaves.

From the Commissioners and Inspectors of the State Prison, you will learn the condition of that institution. The buildings have been slowly progressed with during the past year, and are so far completed, as to

meet the present exigencies of the State. During the year eighteen hundred and thirty-nine, and up to the first day of December, there had been received into the institution thirty-nine convicts. The system of discipline adopted, is of a most salutary character, and seems to be that system best calculated to meet the designs of the law, which may be considered the reformation, as well as punishment of the offender. A bible has been placed in the hands of each prisoner; many of them are taught to read and write; and they receive weekly, divine instruction, from the chaplains, who have proven themselves useful and valuable officers. A full and complete statement of the accounts and expenditures of the Commissioners, will be laid before you; and I would call your attention to the amendment of the law for the government of the institution, by which provision may be made for clothing, transporting, and other charges connected with the ordinary maintainance of the prisoners.—Under the present law, a serious question has arisen, and has produced some embarrassment to the accounting officers, as to what fund, these expenditures are properly chargeable.

It is with no ordinary pleasure, that I call your attention to our system of Education. The foundation of that system, is happily engrafted in the Constitution of the State, and cannot be destroyed, unless sanctioned by the people themselves. Its features are a beautiful illustration of the theory of our form of Government. Here the rich and poor meet together. No favored few reap the golden fruit of knowledge; but every child of the State is embraced within the broad and liberal provisions of our laws. We have utterly repudiated the narrow and unworthy policy, that there must be an education of the poor, as such. And it may be asked, should it be otherwise? "Has God provided for the poor a coarser earth, a thinner air, a paler sky? Does not the glorious sun pour down his golden flood, as cheerily upon the poor man's hovel, as upon the rich man's palace, Yes; the mind of man is immortal; and heeds no bounds of rank or circumstance, of time or place." The report of the Superintendent of Public Instruction, will give you all the information you may desire on this important branch of our State policy.

The University of Michigan, I am proud to say, bids fair to realize our highest expectations, and to prove an honor and blessing to the State. Six branches are now in complete organization, and exhibit an average number of two hundred and twenty-two pupils for the past year. Two Professors have been appointed for the parent institution, and have been actively and usefully engaged under the direction of the board of Regents. A valuable library has been purchased in Europe, measures have been taken to secure the necessary philosophical apparatus, and the foundation is laid for the most valuable cabinet in natural

history our country can exhibit. Four buildings have been erected, ultimately designed for the residences of professors, but which answer all the purposes of the institution for the present, and the erection of the main edifice is postponed until a change in the financial condition of the country will justify the necessary expenditure. As a last injunction to the Representatives of the people, if I may be so permitted, let me urge the preservation of this institution in all its original designs; its protection free and pure from the influence of political warfare, or the equally destructive results of sectarian dissensions.

The entire selection of lands under the donation from the federal government, for State and University purposes, has been completed, and has been reported to the proper department at Washington, for confirmation. The action of that department has for the present been unavoidably delayed, but we cannot anticipate any serious impediment to the confirmation of the locations as made by the agent of the State.—And it may not be unimportant, fellow citizens, here to call your attention to the claim which Michigan justly holds against the general government for a donation of lands for purposes of internal improvement. In accepting the terms and conditions of our admission into the federal Union, a proposition was made to the general government for such a grant. The neighboring western States have all received grants for similar purposes, and Michigan should not abandon her claim to an equal liberality from the hands of Congress. It is no boon she asks; but the acquiescence in a just and unquestionable right.

✓ The State Geologist, will lay before you a minute and elaborate statement of the operations of his department, for the year which has just ended. The success which has attended his labors, is much greater than could have been expected under the restricted organization of his department, and the work entrusted to his charge is rapidly drawing to a close. The resignation of the Botanical and Zoological assistants caused a suspension of their portion of the survey.—The labor of the Geologist has consequently been devoted to a minute examination of the south and southeastern counties, together with the northern peninsula. Materials have been collected for the completion of the geological and topographical maps of nearly two thirds of the peninsula counties, and much valuable information has been secured, connected with the geography and resources of portions of the State, heretofore almost unknown.

The suspension of operations in the Botanical and Zoological departments, has served greatly to reduce the amount of expenditures, and if not renewed, will leave the entire disbursement, upon the completion of the survey, from ten to eleven thousand dollars less than the appropriations made. I would, therefore, in concurrence with the suggestion of the Geologist, recommend the final suspension by law

of all operations in these two departments. If such a change is authorized, the labors in the geological and topographical departments, may be completed within the present fiscal year, and at an expense stated by the Geologist of about six thousand dollars, being one half of the amount originally appropriated, and but little more than the balance unexpended in consequence of the resignation of the Botanical and Zoological assistants.

Under this view of the subject, I can but urge the completion of this important survey, on the basis now suggested by the Geologist. The expenditure required, when contrasted with the beneficial results secured to the State, is comparatively unimportant. The completion of the work will furnish, in addition to the final geological, topographical and statistical reports, accurate geological and topographical maps of the State on a large and extensive scale, delineating minutely, together with the geology and general topography of the different counties, the character of timber, width of streams, extent of marshes, location of towns, saw and grist mills, and variations in the United States surveys. The entire suspension of the survey at this time, will subject the State to the loss of a very great portion of the labor and expense already incurred, and that loss will fall on that part of the work, which is of the most direct and practical importance to the people. A comparatively small appropriation is required, the amount of which, may be re-imbursed to the treasury by the publication of the final reports, if judiciously conducted, emanating as they will from a gentleman of acknowledged and well known scientific ability.

An extraordinary course of events in the moneyed affairs of the commercial world, will necessarily direct your attention to the subject of the currency. For the second time within the space of two years, we have witnessed a very general suspension of special payments by the banks, accompanied by an individual embarrassment, scarcely if ever equalled in the history of the country. These consequences have had their origin in a false and pernicious system of banking, in an unnatural and extended state of trade, and in the expansions of a paper circulation, whose swelling tide, breaking all barriers, has deluged and desolated the land.

It is not contended, that in the present condition of commercial affairs, we can entirely dispense with a proper circulation. In an extensive country like the United States, with all its youthful enterprize and activity, some medium is demanded by the wants of trade, in addition to the unavoidable limited circulation of gold and silver. But this substitute for the precious metals, should be based upon real and actual capital, and should ever preserve its character of convertibility into coin, at the will of the holder. Gold and silver is the measure of value established by the entire commercial world, and all balances of

trade must be settled in this medium, when demanded by the creditor. The necessity of paying that balance, as now existing against the country, has produced the demand for specie, which exhibits the weakness of our banks and the pernicious system under which they have been conducted. It is a singular error, that the banks of the country are least useful, when their aid is most required; and that their ability to meet their engagements is only acknowledged when there is no demand upon them.

I have no disposition to bring down unnecessary odium upon the banks. They have perhaps fallen into errors, the consequences of which neither they or the community at the time foresaw. But I would now place them under proper and wholesome restraints. We have in its full measure, reaped the bitter fruits of unlicensed, unrestrained, and irresponsible corporate banking. The moral desolation exhibited by banks and bankers, within our State, must be humiliating to every good citizen of Michigan. At present, we have but one institution, claiming to be a specie paying bank. The remainder have, without exception, ended in bankruptcy, or retire behind that convenient shield, suspension. In this, there is something radically wrong, and it becomes you as the guardians of the rights of the people, to protect them against similar consequences hereafter. The reports of the Attorney General and late Bank Commissioner, are especially presented to your consideration, as exhibiting fully the condition and proceedings of the banks of the State during the past and previous years, and also as showing a present indebtedness to the public by insolvent institutions, of not less than two millions of dollars.

It must be admitted now, on all sides, without reference to political prejudices, that no cure can be found for the evils the country is laboring under, without a change in our banking system. We are informed, that banks are instituted for the public good; but tell me not of that patriotism, or regard for the public welfare, which wrings its sustenance from the hard earnings of a defrauded and deceived people. Disguise it as you may, banks are instituted for private gain and individual profit, and every accommodation to the public is paid for in the discount deducted by the lender. The obligation between the parties, if any exists, is cancelled at the time of the loan. If, then, such is the case, is there no protection due the public? There is, and you are now called upon to meet the emergency with becoming energy. Protect the banks in all their just rights, but at the same time have an eye to the interests of your constituents.—If bankers deem their pursuit profitable to themselves, make them responsible for the obligations they place in the hands of the community; if they personally receive the profits of their trade, make them personally liable for their debts, at least to the amount of stock each shareholder may possess.

Amend also your criminal code, so as to meet every possible contingency. Take from them to this extent, the corporate veil, which now encourages, and at the same time, conceals and protects their frauds and villainies. If this is done, you will find no banking without capital, no attempts at fraud without responsibility. Again, the Legislature will have no more calls to legalize the suspension of specie payments, a species of legislation at war with the true interests of the country.—The policy has been once fully tried: and whatever may have been our anxiety to relieve the banks, and through them the public, I am satisfied, it has worked nothing but evil, as well to the banks as to the people. We may trace to that fatal measure, the origin of the innumerable banks which sprung into existence under the general banking law, without capital, credit or character. If the first experiment has so signally failed, would it not be madness to repeat it? We have no right to extend this special favor to corporations. If you relieve the banks from their obligations, I would ask, with what face can the same relief be refused to the public at large?

But, fellow citizens, differing as I perhaps do with the acknowledged views of a majority of your body on the subject of banking, I can expect no practical results from any recommendation I might place before you. My successor will undoubtedly present you his opinions on this important subject, and will develop the action which he may deem essential to the public welfare. I trust that his experience, aided by your wisdom, will lead to the most beneficial results. But, I can but express my apprehensions, that you will find it difficult, by legislation; to extend immediate relief to the people. The distress of the country arises in a great measure from its indebtedness, and can only be perfectly healed, when that indebtedness is cancelled. We may rely more upon the immense agricultural resources of our rich and fertile soil, than all the paper expedients of political economists. The country wants time, and time only can relieve its present necessities.

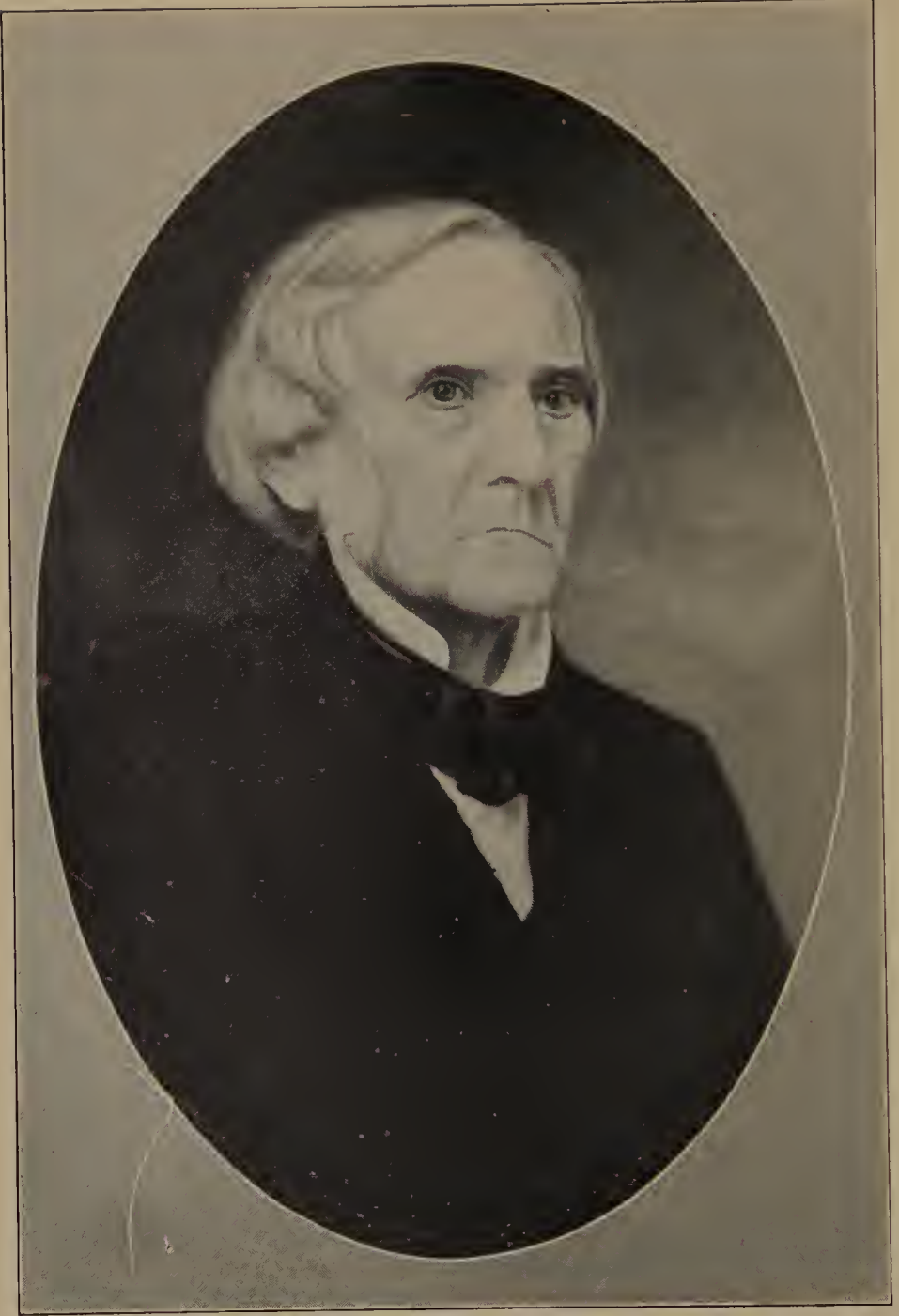
For several sessions, fellow citizens, your predecessors have had under consideration measures for the effective organization and discipline of the Militia. I regret to say, that no beneficial results have as yet arisen from their legislation. There is an indifference and wanton neglect of duty evinced by both officers and men, which earnestly calls for correction at your hands. The only remedy which can be effectually applied, is to attach greater responsibility to the neglect of duty, and require more efficient drill with officers of the different corps. Without efficient and qualified commanders, you can never place your militia, on that high stand, demanded under a government like ours.

My official relations with you, fellow citizens, now terminate, and it only remains for me to take my respectful leave. On reviewing the period of my connection with the Executive branch of the government

of Michigan, I find much both of pleasure and pain. Pleasures derived from the recollection of the generous confidence reposed in me by my fellow citizens and pain for the many unkind emotions to which my position has given rise. But seeking in private life, that tranquility and good will heretofore denied me, I part from official station without one sigh of regret. I shall there cling to every recollection making a claim upon my gratitude or services, and endeavor to forget the painful occurrences of the past. I cannot be insensible to the many errors I may have committed. But I derive consolation from the reflection, that they will be amply repaired by the services of one, whose experience is acknowledged, whose ability is known and whose patriotism is unquestioned. Identified with the early history of Michigan as a State, she shall have, wheresoever the vicissitudes of life may place me, my earnest and continued desire for her prosperity and welfare, and my anxious and fervent prayer, that He who holds in his hands the fate of nations and the destinies of men, will bestow upon her every blessing a free and enlightened people can desire.

STEVENS T. MASON.

GOVERNOR
WILLIAM WOODBRIDGE



WILLIAM WOODBRIDGE

BIOGRAPHICAL SKETCH

WILLIAM WOODBRIDGE, the third Secretary of the Territory, and the holder of many other offices of importance in the Territory and State, was born in Norwich, Conn., August 20, 1780. His father removed to Marietta, Ohio, in 1701. The boy's youth at school was spent there and in Connecticut until he was nineteen, when he came to Marietta, reading and studying for about three years, when he determined to make the law his profession, returned to Connecticut and entered at Litchfield, the first and for many years the most famous Law School in America. There he remained three years, was admitted to the bar of Connecticut, then returned to Marietta in 1806 and was admitted to the bar of Ohio and began the practice of his profession.

The following year he obtained the first of his many public offices in his election as Representative in the State Assembly. In 1808 he became Prosecuting Attorney of his county and in 1809 member of the State Senate, and continued to hold both these offices until he removed to Michigan in 1814.

On September 30, 1814, he was, without suggestion or application on his part, appointed by the President, Secretary of Michigan Territory, to succeed Reuben Atwater, who had shown disinclination to return to his duties after the war of 1812.

In January following he left Marietta for Detroit to look over the country, but with some doubt about his final acceptance of the office, as the salary attached was not sufficient to justify his leaving Ohio where he enjoyed a high reputation and a good law practice.

However, he found the climate good for his health, and his duties though onerous, especially as Gov. Cass was frequently absent, were pleasant.

At once Secretary, Collector, and Attorney, Woodbridge took high position in the regard of his fellow citizens and in their respect for his ability. He was well read, a thorough lawyer, firm in his position when taken, but courteous to all.

As the Territory grew in population, the sentiment increased that it should have some voice at Washington to tell of its needs and desires, and in February, 1819, Congress passed an Act providing for an election by the Territory of a Delegate to Congress, with the right to debate measures but not to vote. Woodbridge had considerable influence in bringing about this result. It seemed evident that there was no man in the Territory so well fitted by acquaintance, experience and personal qualities to fill the position as the comparatively new

comer, William Woodbridge, and in December, 1819, he was elected Delegate.

The feeling rapidly began to rise, however, that too many important offices were being concentrated in one man—Secretary, Collector, and now Delegate—and realizing that there was much force in this claim, and not wishing to antagonize the public feeling, at the end of his first year he withdrew from the position as Delegate, keeping his other offices and increasing his law practice.

In 1828 he made an exchange of offices with Judge James Witherell of the Supreme Court by the co-operation of the President and Senate, but held his judgeship for only four years, as at the expiration of that time Andrew Jackson was in the Presidency, and William Woodbridge was not one of his political following. In 1832, for the first time since he came to Michigan, he found himself without an office.

In 1835 the first Constitutional Convention was held to make Michigan a state, and Woodbridge was a delegate from Wayne County, one out of four Whigs in the Convention. In the Senate of the new state Woodbridge was a member for 1838 and 1839, and at the state election during the latter year he was elected Governor. He served until February 23, 1841, when he resigned, having been elected to the United States Senate for six years, by a combination of Whigs and Democrats.

Upon the completion of his term in the Senate, he retired to private life, at the age of 67, and lived upon his farm at Springwells, near Detroit, until his death Oct. 20, 1861. His name is commemorated in Detroit in Woodbridge Street.

In an address in 1861, Senator Howard paid Mr. Woodbridge the following tribute: "He was a man of very thorough professional attainments, familiar with all the standard English writers, and with the principles of English and American law. He loved law books, and especially old ones, and delved with alacrity into the oldest reports and treatises. But it must not be inferred that he was inattentive to modern decisions, whether English or American, or to the general progress of the science of jurisprudence. He was a scholarly, able man. In the conduct of a case at the bar, though always earnest and persevering, he was uniformly courteous. No opponent ever had cause to reproach him with the slightest remissness in his intercourse as counsel. His learning, his wit, and his gentlemanly manner always won for him the admiration of the bench, the bar, and the bystanders. He was not, perhaps, the most powerful advocate in analyzing testimony and exposing falsehood or improbabilities, but rather relied for success upon his points of law, which he certainly put with great

force and clearness, and yet his efforts before a jury were so persuasive, kind and smooth that he seldom lost a verdict. His taste was highly cultivated and refined, and rather easily offended by coarse expressions or unbecoming conduct."

Mr. Farmer in his *History of Detroit* says of him: "In writing, his style was clear, perspicuous and attractive, and in all his literary productions he represented the best intelligence and most cultivated thought of his New England ancestry. His law library was very complete and valuable, and he prized it as the apple of his eye. He was uniformly distinguished for courtesy, integrity, fidelity, learning, industry, and great ability. As a lawyer, he was faithful to his clients, but always in subordination to his conviction of what was required by law and justice; strong in his convictions and frank in the expression of them, they were always founded in his own sincere views of what was equitable and proper. He possessed great social and conversational powers, and could sit for hours at a time and discuss a subject with the utmost vivacity. His love for his family was deep, strong, fervent, almost passionate. He was a great lover of the quiet of home and was eminently kind, patient, and loving in all his intercourse with his family and with his neighbors, also, and was sincerely loved by all who knew him intimately."

MESSAGES

1840

January 7, 1840

From *Journal of the House of Representatives*, pp. 9-12

Fellow citizens of the Senate, and House of Representatives:

That is a wise provision of our fundamental law, which requires that the Representatives should meet at a fixed period each year, and consult together for the common good. In older states than ours, even, and in other and less changeful times, such a measure is full of wisdom. A general knowledge of the condition of public affairs is thus brought within the grasp of all. That tendency to abuse, to which all things human are subject, is thus placed, periodically, within the power of control; and the frequent recurrence to fundamental principles which such annual meetings of the chosen agents of the people naturally invites, tends eminently to secure the efficacy and preserve the purity of the government. But here, in a new country like ours, not yet reclaimed from its wilderness condition, where our local institutions have already proved imperfect and inadequate; where new interests are constantly arising to be protected and advanced; where new difficulties are occurring, to be obviated and overcome, and evils of an extraordinary character, both local and national, are pressing heavily upon us, such a provision seems indispensable. In an age like this, especially, so strongly marked by its love of change, by its novel experiments, its fanciful theories, and its fearful hypotheses, how eminently necessary it is, that the people, in the persons of their selected and honored agents, should be thus called together, that they may interchange their opinions, and deliberate and act for the common good; that they may cautiously review the condition of our public affairs; that they may correct whatever may tend to evil in our existing establishments, and that they may devise the most appropriate means by which to elevate the character, promote the happiness, and foster and protect the best interests of the country!

Such are the benign purposes, gentlemen, for which you are now called together by our organic law. To aid you, in whatsoever degree it may please God to enable me to do in the attainment of purposes so beneficent, and so imposing, I also am honored by the commands of our common constituents. I approach this new theatre of action with promptitude, for such is my duty—but oppressed, as I feel myself, by the variety and importance of the obligations imposed upon me; by the responsibilities to God and to my country, which I thus assume, I

approach it with that deep humility which becomes the occasion. Our fellow-citizens have confided in my honesty of purpose, gentlemen, and in yours. They have trusted in our energy, in our prudence, and in our wisdom; and thus confiding, they have placed, for a time, in our hands, the character, the well-being, and under the providence of God, the destinies of our young and interesting state. But generous and confiding as they are, they nevertheless expect much from us—and, for good or for evil, grave and lasting consequences will be anticipated from the manner in which we shall acquit ourselves of this high trust. Let us commence our interesting work, then, with a due sense of its importance—let us suppress all such local partialities and party animosities, as may seem unfriendly to the common good—and each in our prescribed sphere, and invoking the blessing of Providence upon our labors, with singleness of heart, seek to advance the moral and political prosperity of our common country.

It is a country dear to us all! and while we humble ourselves before the power of the merciful Ruler of all things, and, in sorrow, confess that the many evils, which, as a people and a nation, we endure, are brought upon us by our folly, fool-hardiness and sin, let us not cease to be grateful, for that our lot has been cast in so fair a land, for that the benefits of christianity have been spread far and wide among us, that health has dwelt in our habitations, that our harvests have been gathered in so rich abundance, and that we are permitted to “sit down and reason together” concerning the improvement of the social, moral, and political institutions of the country, while peace and plenty rest upon our borders, and there are none to make us afraid. I am aware, gentlemen, that in its apportionment of powers, the constitution has not assigned it to the executive department to participate, directly, in the discussions, which may be incident to the business of legislation. To the matured wisdom and prudence of the Senate and House, it is peculiarly given, to settle as well the principles, as the details of all bills which may be before you; yet, to a certain extent, the Governor is also identified with your enactments, and his concurrence made necessary. The general remarks I have ventured to submit then, will not I hope be deemed obtrusive nor unwarrantable. The Governor, among other enumerated duties, is required to communicate to you “the condition of the State,” and to recommend to you such measures “as he shall deem expedient.” The circumstances under which I meet you, will render it impossible for me, at the outset, to acquit myself of either branch of this study, in any but a very imperfect manner. The true condition of the state can be ascertained only, as to most particulars at least, through information obtained from its principal

officers, followed, perhaps, by a laborious examination of their respective departments. A demand for such information and scrutiny, would be sanctioned, only, on the part of the *constituted and recognized* organs of the State; in me hitherto, it would have been unauthorized and obtrusive. I must then obey the dictates of circumstances, and while I reserve for future and occasional communications, more exact views of the actual posture of our public affairs, and the recommendation of such specific measures as may be deemed appropriate, I must, at the moment of my induction, restrict myself to submit to considerations of a general character. These I am ready to submit to you whenever you may be pleased to receive them. They may appear to you imperfect in conception, as they are deficient in detail. Without any official facilities, I could hardly hope to have made them so. But I have the consolation to remember, that while in the reports required by law to be made to you, you will find *certainty* substituted for conjecture, so, in the resources of your own intelligence and sound judgment, you will find an ample corrective for any crude thoughts or fallacies of mine.

There is, after all, gentlemen, an invisible hand which overrules the councils and conducts the affairs of men; with *Him*, the wisdom of man is as foolishness; but with his benediction upon our labors, which we ought humbly and fervently to implore, we may well hope that our efforts to ameliorate the condition and advance the best happiness of our country, may be crowned with signal success.

WILLIAM WOODBRIDGE.

January 17, 1840

From *Journal of the House of Representatives*, pp. 62-63

To the Senate and House of Representatives:

It has become my duty to request the early attention of the Legislature, to the condition of that very numerous class of our fellow citizens, who seem to have entered into contracts with the accredited agents of the state, for the furnishing of materials, or the performance of labor upon our public works, and who claim to be creditors.

The aggregate amount of the outstanding pecuniary liabilities already incurred in the prosecution of our gigantic project of internal improvement, can best be ascertained by a minute examination into all the operations of the commissioners and of the board.

If this aggregate amount should be found swollen beyond our present available means, I am persuaded that you will not the less think it a duty, gentlemen, to provide for its liquidation; nor would any unnecessary delay of payment, in cases where contracts have been entered into

in perfect good faith, be justified, by imputing indiscretion or extravagance to our predecessors who may have authorized such accumulated liabilities. It is the public faith, which is pledged; and it is our constant duty to preserve the public faith inviolate. And as this, to the utmost extent possible, is our duty, so, I am sure, you will think it also, for our advantage. For "there is no truth more thoroughly established," (as our first, our greatest, and our best president has told us,) "than that there exists, in the economy of nature, an indissoluble union between virtue and happiness; between duty and advantage; between the genuine maxims of an honest and magnanimous policy, and the solid rewards of public prosperity and felicity." Feeling assured, gentlemen, that there can exist no difference of opinion, as to the justice of these sentiments, or the soundness of the policy which they indicate, I respectfully lay before you, herewith, a memorial of some of our fellow citizens, exhibiting the distressed condition in which they appear to have been placed by reason of an alleged failure on the part of the agents of the state, to comply with the pecuniary engagements made with the memorialists. Though addressed to the Governor, (who, without your aid, can furnish no relief,) yet I have considered it a duty, which both justice and sound policy enjoin, to submit it to you, for your more efficient consideration.

But while I commend this subject to your earnest attention, I would venture to suggest the expediency of a guarded caution, in any general act you may think it proper to pass against the allowance of claims upon any contract, except such as may have been entered into in the most perfect good faith.

I again, also, respectfully ask your consideration of the propriety of abrogating, or at least of suspending, all existing authority, on the part of the commissioners of internal improvement, to enter into any new contract for the prosecution of the projected works, until ways and means to meet the exigency shall have been provided.

I avail myself of the occasion, to present for the consideration of both houses, a communication from the Secretary of State, concerning insurance upon the capitol and the state library, and submit the propriety of early attention upon the subject alluded to.

WILLIAM WOODBRIDGE.

February 28, 1840

From *Journal of the House of Representatives*, pp. 325-327

To the House of Representatives:

Gentlemen—In accordance with the provision of the constitution, I return to "the house in which it originated," the bill entitled "An act

to abolish the office of State Printer, and for other purposes," without my signature.

First. The first objection which I find it difficult to overcome, consists in the belief, that it is not expedient that the legislature should place beyond its control and proper supervision, the whole of the public printing and work connected with it, for so long a period as two years from July next. To attempt thus practically to tie the hands of future legislatures, in relation to a matter of so much practical importance to the people, is, in itself objectionable, even if it were free of doubt, as to our competency to do so. But the deranged state of the currency of the country, and the continued and successive changes in the relative prices of materials and labor, consequent upon it, must render it impossible to determine, by the relative value of money *this year*, what may be a fair and reasonable compensation for the next. I object then to so much of the bill as purports to confer upon the officers of the government indicated, the power and the duty to contract for *all* the public printing and binding, necessary to be done for the legislature, and for all the departments of government, for a period so long as two years from and after the first day of July, 1840.

Second. The constitution requires "that each house shall keep a journal of its proceedings, and publish the same, &c." I consequently feel myself authorized, and perhaps bound, to notice the facts which it exhibits. By a reference to the journal of the Senate, of the third and fourth days of February, instant, I find that a contract has been authorized and consummated by the Senate for performing a part of the public printing during the current year. The bill purports to require the officers indicated, to contract for the whole of the public printing, by a clause *universal* in its terms, and containing no proviso, exception or saving, in regard to that part of the public printing, which had been already contracted for. So far as I have means of knowledge, this contract appears to have been entered into in good faith, and was sanctioned by the law of April 19, 1839. If so, it is morally binding over all private contracts, the constitution throws its mantle. Their obligations should never be impaired. Last and least of all, should the authorities of the state set the pernicious example. I know this Legislature could never intend to do so; it may have been supposed that the contract alluded to was founded in mistake—it may have contained a reservation of power; of these things I am ignorant, nor can I judge. The journal entries furnish at once, the source and limit of my information; seeing them, am I not bound by them, looking no further?

It is with deep reluctance then, that I feel myself inhibited from affixing my signature to the bill, because its *ostensible* tendency is to infringe a principle of the constitution, which should be holden inviolate.

I am decidedly of the opinion that the office of State Printer ought,

in this state, to be abrogated, such an establishment is not here indispensable, and it tends to an unjust monopoly, it deprives the state of the benefit of fair and honorable competition; past experience, and the observation of other times and countries, may well admonish us that the influences of such an office are not of the most favorable character in our communities. But notwithstanding, my opinion as to the general expediency of abrogating the office, I feel constrained to withhold my assent from a bill which contains features, which seem to me, still more objectionable than those of the existing law. It will now be again referred to the wisdom of the Legislature as to the expediency of passing it in its present or in a modified shape.

WILLIAM WOODBRIDGE.

March 10, 1840

From *Journal of the House of Representatives*, pp. 414-415

To the House of Representatives:

Gentlemen—It is with much reluctance that I feel myself compelled from a sense of duty, to return to you, without approval, the bill entitled “An act to provide for the collection of delinquent taxes in the county of Ottawa, and for other purposes.”

The first section of that bill purports to sanction and adopt, in gross, the returns of the overseer of highways for the district therein named, “of the delinquent resident and non-resident highway taxes for the year 1838,” and to require that the collection of those taxes be coerced, any law to the contrary notwithstanding, according to the provisions of the act to extend the time for the collection of taxes for the year 1839, &c.

Whatever irregularities may have been committed in the operation, from the beginning, however unjust or illegal may have been the previous assessment, apportionment or return of these taxes, by this act, all is made good, and that without extending to those whose farms may be sacrificed in consequence of it, an opportunity to correct whatsoever may be unjust or oppressive in the transaction, nor even perhaps the power of remonstrating against such wrong, if it exist.

When taxes are assessed upon a scale of uniformity and equality, and by a standard of value which approaches to certainty, there would be less hazard of committing injustice by such retrospective acts. Though even in such cases I think retrospective acts of this character ought never to be passed except in cases of imperative necessity. Vested rights may be thus disturbed, and without intending it, gross injustice may be done. The common good and the rights of the citizens are always

far better protected by laws altogether prospective and not retroactive in their operations. But in cases where there is no common standard by which to assess a tax, and no uniformity secured in its apportionment, but a broad authority is vested in a few individuals of any neighborhood, to assess and apportion, almost at their pleasure, local (as in the case of highways or school taxes,) a retrospective act, purporting to approve and confirm all which so have been done, I consider most highly dangerous to the safety of the citizens and to the honor of the state.

Taking these views of the subject, and so understanding the bearing of the act in question, the objection they imply seems to me imperatively to forbid my signature of the act.

WILLIAM WOODBRIDGE.

March 11, 1840

From *Journal of the House of Representatives*, p. 426

To the Senate and House of Representatives:

I herewith present, for the consideration of both houses of the Legislature, the application of Cyrus Howard, Esq., concerning a reward which purports to have been offered for the discovery and apprehension of the person or persons who may wickedly have set fire to and caused to be burned down, the bridge over the River Rouge, on the Central railroad.

I have deemed it inexpedient for me to act further on this subject until the pleasure of the Legislature may be made known to me.

I have no knowledge of the subject, either personally or officially, other than is contained in the accompanying documents; nor would any action, under circumstances, be proper on the part of any of the officers of the Executive government, until appropriate means were taken to establish the genuineness of the claim, and an appropriation made by law, to meet the exigency.

I commend the subject, respectfully, to the consideration of the Legislature.

WILLIAM WOODBRIDGE.

March 20, 1840

From *Journal of the House of Representatives*, pp. 549-551

To the House of Representatives:

Gentlemen—I herewith return, for the further consideration of the Legislature, the bill entitled “An act to authorize the guardians of Ursula and Dorothy Cauchois, to convey certain real estate.”

It has not been without much doubt, as to what course duty prescribed to me, that I have been able to form any opinion, satisfactory to myself, in this matter. My safest course I have thought was to submit the subject again to your review.

When the statute, commonly called the "statute of frauds," was first introduced into the English code, very serious doubts were entertained as to its proper operation in some particulars. In terms, it comprehended, as well contracts then existing, as those thereafter to be entered into. Although the legal omnipotency of parliament was not then brought into question by the judges, yet, with that cautious wisdom which is in general characteristic of the common law, they put such construction upon the act, restraining the generality of the terms used, as to limit its operation to contracts thereafter to be entered into. This was the course which natural justice indicated. Retrospective laws, so far as they act upon individuals alone, are generally unjust, and always dangerous; and there have not been found wanting, even among the great and learned men who have constituted the supreme court of the United States, those who have believed that the inhibition contained in our constitutions against passing *ex post facto* laws, was meant to apply as well to civil cases as to crimes.

The bill under consideration manifestly supposes that there existed no such contract between the decedent, (Agatha Cauchois,) and the person named, as could be enforced, as had valid force in the law; for if it had valid force, its performance could still be enforced by the judiciary, and this bill would, therefore, have been unnecessary and useless. This bill nevertheless, sets up a supposed agreement, (inoperative because, being by parole, the law considers it as no contract,) and with certain very judicious and well prepared guards, authorizes its future enforcement. By that enforcement, certain real estate, now the property of infant children is subject to be taken from them.

Viewing the matter in this light, it seems to me that the bill is obnoxious to several objections.

In the first place, I would respectfully suggest, that I have seen so much evil at different times, result from a practice of legislating for the exclusive benefit of particular persons,—or to meet the exigencies of a particular case,—that except where the state may be a party in interest, I hold it to be the most dangerous character always.

To prescribe general rules of future action applicable to all our citizens alike, seems to me to constitute the only safe and legitimate scope of action for the legislative power in all except in cases particularly effecting the fiscal or other operations of the state, unless in some extraordinary combination of circumstances. The case supposed in the bill under consideration does not seem to me to present those circumstances.

Secondly. The retro-active operation of this bill, by making that

valid which the bill itself supposes to be ineffective and void, effects a change of the vested rights of infant children, incapable of protecting their own rights; it is, therefore, most certainly dangerous, if it were even free from constitutional objections.

It is true, that by the bill, effect is not intended to be given to its provisions, unless a judge of probate shall think that it would be for the benefit of the infant, that such void contract be enforced, and it is this cautious guard that principally has led me to hesitate in my own course in this matter.

But if there be a defect in the general law of the land, applicable to all in like circumstances, I would respectfully submit, that it would accord better with safety and true policy, to alter the general law, and under proper restrictions, to authorize guardians of minors, by the direction, and under the control of the proper courts of probate, to enter into and execute such contracts as are here sought to be enforced.

The most objectionable features of the present bill would be thus avoided.

WILLIAM WOODBRIDGE.

March 27, 1840

From *Journal of the House of Representatives*, pp. 620-621

To the Senate and House of Representatives:

Gentlemen—Circumstances connected with the present condition of the Michigan militia, seem to me to render it expedient that a new appointment be made of a brigadier general of the fifteenth brigade, of the eighth division. A difficulty seems to have existed as to the respective claims of two gentlemen for the same office; both seem to have been commissioned for the same command, and by commissions issued within a short time of each other. Some irregularity and misapprehension seems to have existed relative to the matter, the consequences of which are very unfavorable to the character and efficiency of the militia, especially of that brigade. Under these circumstances I have supposed it expedient to vacate both commissions and to nominate to both branches of the Legislature in joint convention met, another person.

I have also supposed that the good of the service requires that new appointments be made of judge advocate general and quartermaster general.

If it be the pleasure of both branches of the Legislature to receive and act upon such nominations, I submit it to the consideration of the Legislature, whether it suit their convenience to receive those nomina-

tions at such time as they may appoint for receiving the nomination of a person to be acting commissioner of internal improvement.

WILLIAM WOODBRIDGE.

January 7, 1840

From *Journal of the Senate*, pp. 21-43

Fellow citizens of the Senate, and House of Representatives:

I have already represented to you the perplexing embarrassments which have existed, relative to the early performance of that constitutional duty, which exacts of the Governor that he should "communicate to you the condition of the state." Unless those avenues, which alone lead to full and authentic information in this matter, are by the sanction of law made accessible to him, it is hardly practicable for a newly elected incumbent to perform that duty, usefully to the public, or creditably to himself. Whether it be expedient to provide against the recurrence of similar embarrassments at a future time, I respectfully submit to your consideration. Our fiscal and political year, for most purposes corresponding with the Gregorian year, has hitherto terminated on the 31st of December. Should you deem further legislation necessary on the subject alluded to, I would suggest to you the expediency of requiring the Auditor General and State Treasurer, respectfully to adjust, state and balance their accounts down to the termination of the third quarter of each year; and that they, together with all such other officers as are required by law to make report to the Legislature annually, should respectively prepare their exhibits and reports for said three quarters of a year, and deposit them, during the month of October, in the office of the Secretary of State; there to remain under proper regulations, for public inspection until the succeeding session of the legislature. Such a course would not be attended by any material increase of labor—it would lessen that pressure of business in the public offices, which is apt to be thrown into the end of the year, and enable those officers to complete their reports for the fourth quarter, with greater celerity and more convenience, while it would also tend much to facilitate the dissemination among the people of correct information, at a very appropriate time, on topics of peculiar interest.

No subject, gentlemen, more manifestly demands your prompt attention, than that of securing a full representation of this state in the Congress of the United States, at the earliest practicable period; for, in respect to no portion of the United States can there have existed a more manifest necessity for it. Interested as vitally as any other sec-

tion of the Union can have been, or can now be, in those portentous schemes of general policy, which for several years past have so greatly agitated the nation, other considerations have combined to render it primarily important that we should be so represented there. The exposed condition of the state along this interior frontier of the nation—the peculiarity of our commercial interests upon the immense inland seas which almost surround us—the vast proportion of unproductive public domain within the peninsula, the condition of which, by depriving the state of its proper and natural resources, interposes so fatal an obstacle to the completion of an adequate system of internal improvement—and withal, the delicate and absorbing questions which have existed concerning that southern boundary, which was guarantied to us by the ordinance of 1787—all constitute so many additional motives for securing to our young and enterprising state, a representation in Congress, both in regard to numbers and weight of character, as efficient as possible.

In the second article of the constitution of the United States, it is provided that the members of the House of Representatives shall be *apportioned* among the several states, according to their respective numbers. In the fifth of the permanent articles of the ordinance of 1787, it is provided that whenever any of the new states contemplated by that act, should contain a specified population, such new state should be admitted into the Union “on an equal footing with the original states, *in all respects whatsoever.*”

It is deeply to be regretted, that when, in 1836, this state was admitted into the Union, the right to be represented in Congress, by numbers in proportion to its population, was not extended to us.

According to the established ratio then existing, our population would have entitled us to three certainly, and perhaps to four representatives in the House. And if an enumeration of our population, taken under the immediate control of the national government, and by its own officers, would have implied a higher degree of authenticity, it would seem not unreasonable to expect that Congress would, by law, have provided for it.

That our population exceeded 47,700, that body *must* by *some* evidence, have felt assured; for, if the fact had been otherwise, we not only could not have claimed admission into the Union as of right, but, to have recognized us, as a member of that Union, upon an equal footing with the other states, would have been in *violation* of the principle affirmed in the article of the constitution alluded to. It would, in fact, have been in violation of the rights of all the other states! But the *same* evidence, which proved that our population exceeded that ratio, proved, also, that upon the principles of a *proportionate* representation, we were entitled to three representatives, beyond any doubt, leaving a balance unrepresented almost equal to the ratio required for the fourth.

From consideration such as I have suggested, doubtless, the convention which formed our state constitution, respectfully preferred to the general government, our claim for a representation in the House proportionate to our population.

Upon what *principle* that claim may have been resisted, I have never learned. It appears not, however, to have been sanctioned by that respectable body, if it were ever fully laid before it. As a new national census is now soon to be taken, and a new apportionment made, it may be questionable, whether a renewal of the application in any shape would be of essential importance. I commend the subject to your consideration, not doubting but that you will make such disposition of it, as wisdom may dictate, and as your regard for the interests of the state may demand.

Our right to a *constitutional* representation in the Senate of the United States, does not seem, however, to have been questioned. Whatever doubt might originally have existed as to the validity of the apportionment of Senators, by a body not recognized at the time, to have a legal existence, as "the legislature" of a state, none, it is presumed, can now exist; but that it is proper to fill the vacancy, which has continued since the 3d of March last, when the supposed term of the Honorable Lucius Lyon, as a member of the Senate from this state, expired.

By the fourth section of the first article of the constitution of the United States, it is provided, that "the times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each state by the legislature thereof.

The legislature, acting in reference to this clause of the constitution, by a general law, to be found in our revised code, appointed the time, place and manner of holding such election in this state. As you will have perceived by reference to the journals, an *ineffectual* effort was made by the last legislature to elect a Senator, according to the provisions of that law. The "time," however, within which such election should have been made, has now gone by; and there exists neither any act nor resolution of the legislature, providing for the exigency. I would, therefore, recommend the immediate enactment of the necessary provisions in order that the election of Senator may not be unnecessarily deferred, nor the validity of the appointment, when made, brought into question.

In regard to the internal polity of the state, gentlemen, the most cursory survey which you can take of it, exhibits the startling fact, that, from the period of its commencement, our expenditures for the ordinary operations of the government, have far exceeded its fixed and ordinary income. This prominent feature in the aspect of our public affairs, will, I doubt not, fix your prompt and earnest attention.

Economy, in individual and social life, is of great value; in all forms

of government, it rises in importance—in republics, it becomes an indispensable virtue. Its plainest dictates seem violated in the fact alluded to. It may well be presumed sometimes to happen in governments wisely framed and prudently administered, that its disbursements may, upon sudden exigencies, exceed its revenues; wars, civil disturbances, a general failure of the harvests, are contingencies to which all countries in all ages, have been exposed; and which, when they exist, not merely justify, but require disbursements greatly exceeding the established revenue. But that such excess should be tolerated in times of general health and profound peace, when neither external wars nor internal convulsions occur to disturb the quiet and harmonious operations of government—when the enterprise of commerce receives its rich reward, and ample abundance crowns the labor of agriculture, implies something radically defective, either in the financial system adopted, or in its proper and faithful administration.

To explore the causes which may have led to this evil with us, and to apply adequate correctives, so that it may exist no longer, have become primary and imperative duties. Has it been occasioned by the creation of too many offices, let useless ones be abolished. Has it been aggravated by assigning to two or more officers, duties which might be performed by one, then let such offices be consolidated. Have two or more officers received the compensation due for the performance of services assigned only to one, it is fit to guard against the recurrence of such an anomaly. Have the sessions of the legislature been too much protracted, and have its incidental expenses been greater than a just regard to the convenience of its members, and the systematic transaction of its business rendered necessary, I feel persuaded, gentlemen, if such an evil exist, you will be among the first to detect and correct it.

Pecuniary claims, too, unjust in themselves, or for sums larger than justice would exact, have sometimes, I do not doubt, been inconsiderately allowed; and there seems to me to have been a failure to provide or enforce, as regards many of your accounting and disbursing officers, that strict responsibility and subordination so essential in every system of finance. But I am constrained to believe, gentlemen, that one principal source of a wasteful disposition of the public moneys, is to be found in the custom which seems to have obtained, of crowding into the general appropriation law, which is of necessity passed every year, provisions for the payment of so great numbers and varieties and several and disconnected claims upon the government. Those laws are generally among the last of the acts of the legislature at every session, and my own observation and experience enable me to know, that in the last stages of bills of general appropriation, claims are often obtruded suddenly—in the shape of amendments, perhaps—under circumstances which preclude the possibility of a full and deliberate consideration of

them; and thus, from accident, or from an indisposition on the part of individual members, to delay proceedings, and perhaps from a conscious danger of defeating a measure, otherwise of great importance, pecuniary claims are acquiesced in, which, if unconnected with others, they had been passed upon separately, would hardly have received the sanction of legislative approval. If I were permitted then, gentlemen, in a matter which may seem to concern rather the forms than the substance of legislative action, to obtrude an opinion, it would be, that no pecuniary appropriation, (except such as concern the contingent or other expenses of the legislature while in session, or such as may be for salaries *previously* by law established,) be permitted to find a place in the general appropriation law, unless it be upon the footing of a previous special report of the Auditor General; or the previous special and separate report of some of the appropriate standing committees of that branch of the Legislature in which the claim may be. Connected with this general subject, I feel myself called upon, also to recommend to your consideration, gentlemen, the propriety of prohibiting, under severe penalties, any officer of the government from *overdrawing*; and from entering into any contract or stipulation in the name of the state, (as some, it would seem, have been wont in times past, to do,) for the absolute or conditional payment of any sum whatever, not expressly sanctioned by previous enactment.

With these general observations, gentlemen, I commend this interesting topic to your most serious consideration; not doubting but that you will leave it with the pleasing consciousness, of having found in the legislative precautions which your own prudence, research and good sense will have adopted, an easy, sure and ample prospective remedy for this corroding and dangerous evil.

Passing from this, I feel myself bound to solicit your attention to another subject, of a character far more grave and engrossing—because it is one, which viewed in every aspect of which it is susceptible, must, I fear, lead to great and inevitable sacrifice.

Our young and ambitious state, almost on the instant of her recognition as a member of this great nation, with a revenue scarcely exceeding a moiety of the sum requisite to defray the ordinary charges of government—without funds she could call her own—without aid, or the promise of aid from the general government—and while there was no surplus agricultural wealth beyond it to be transported; undertook to construct simultaneously, five different and parallel lines of inland communications by railroads and canals, at an expense of from ten to fifteen millions of dollars. These are all designed to cross a peninsula bounded on three sides by inland seas, affording in time of peace,

the safest and finest navigation in the world! and this while four-fifths of the country, yet a wilderness, to be traversed by these communications and to be benefited by the projected schemes, could be charged with no part of the expense nor become taxed for the support of government, without bringing her into immediate hostile collision with the national administration.

This scheme, so bold in its conception, so splendid in its design, so captivating to a fervid imagination, but yet so disproportioned to our present local wants, and so utterly beyond our present means, must, I fear, as a whole at least, be given up.

Why, indeed, should the toil of our own fellow citizens, *exclusively*, be applied to the immediate achievement of a work, the present character of which is decidedly *national*, and not local? And why should *our* means only, if we possessed them in profusion, be applied to the enhancement of the value of wild lands—beautiful indeed, but four-fifths of which are claimed as *national* domain; and as belonging to a proprietor, *who in no wise contributes* towards the completion of the work?

Desirous then, gentlemen, as our immediate fellow citizens are, that the latent resources of our infant state should be developed in all their rich abundance—desirous as they are, that the hidden beauties and excellencies of our country should be exposed to view and be made useful; and emulous as they are (and none are more so) of that spirit of enterprise which so strongly marks the American character; yet such is the inadequacy of our unaided present means, and such would be the fatal consequences of creating an immense public debt for such purposes, under the paralyzing influences of which the strength and energies of the state would be depressed, and probably would languish for half a century, that every consideration of prudence forbids, I think, the further prosecution of this great and favorite work.

That which is finished, let us make available upon the best guarded system practicable, and productive to the state. That which is nearly finished, and would pay a fair interest upon its cost, and that only, let us try to complete, as means may accrue, without direct taxation.

The large disbursements which have been made upon the Clinton canal, being principally towards its eastern extremity, may be saved perhaps, in part, from absolute loss; and by terminating that work at some point where it enters the high ground; we may secure, perhaps, a canal navigation at least, down from that rich agricultural district. It is fit to indulge this hope, though present means may fail us; and it is fit also to remember that, as the avidity of private gain leads to a more scrupulous and sharp sighted economy than is found ordinarily to flow from the colder dictates of public duty, so, it may happen that

private incorporated companies may find it for *their interest*, to complete many projected public works, which it might not be judicious for the state to do; and on terms which may be fair and just. The general government, too, may at length listen to our applications, so often reiterated, in relation to the public domain, and consent to extend to us that wise and just policy, which has hitherto been extended to others of the western states.

I am quite aware of the highly excited feeling which obtains in many parts of the Union, concerning a proper disposition of this great property. Very unjust opinions, I think, are entertained by many of our fellow citizens in other states, on that interesting topic; but I do not now propose to enter the discussion of them. One or two remarks only, connected with the subject, I venture here to present.

Nothing, I believe, gentlemen, has tended more to fasten the affections of the people of the United States to the national government, than that generous and paternal sentiment, and that lofty magnanimity, which, in times past, have given tone and character to its council; and surely, we ought not to indulge in the belief, that that government will much longer permit its statute book to evince an invidious distinction, in this regard, between Michigan and her elder sister of the western states.

From the public domain, then, let it belong of right, to whomsoever it may, without the exhaustion of all other resources, and without incurring an intolerable *public debt*, we may hope, in the fullness of time, to be enabled to prosecute some judicious and well devised system of internal improvement.

But in the interim, gentlemen, I am forced reluctantly to the opinion, that our duty now is, to cease all further disbursements upon, and to suspend all further prosecution of the present plan—and this course, I think, too, our country demands.

I feel myself compelled, then, to recommend to your early consideration, the propriety of an immediate suspension, or repeal, of all the existing laws relative to our internal improvement system, excepting so much thereof as relates to the running of the cars upon the railroads already in use, the regulation, receipt and application of the tolls collected thereon, and so much as in any wise regards the receipt of the instalments due and accruing upon the five million loan (so called,) and the payment of the stipulated interest.

I would recommend, also, that such means be devised by you, as may seem effectual and appropriate, for obtaining, to be laid before you, a full and clear exposition of the actual condition of every part of the work comprised in the general plan, and of the materials procured and

not yet applied; and a full and detailed statement of all the pecuniary transactions of the different boards of internal improvement and of the members thereof, respectively, from the first institution of the system; specifying among other matters, the purposes to which all disbursements of money have been applied, and such other matters as you may deem effectual, to possess you fully with a knowledge of the whole subject; and this being obtained, I would recommend that a system of greater simplicity, and more economical in its principles and details, be substituted for the present one; restricted to such part only of the present plan, or to such new objects, as you may deem it proper to provide for. And should it be deemed expedient to retain the services of a *board* of commissioners, then I would submit to your judgment the propriety of providing for the appointment of some one person only, himself a practical engineer, as commissioner and member of the board, and for the constituting the Secretary of State and the State Treasurer or Auditor General, without any increase of salary, members ex officio of such board; taking care nevertheless, to avoid the financial absurdity, (so destructively illustrated in our first board of internal improvement,) of authorizing disbursing officers to audit and finally pass upon and allow their own accounts, and drawing the public moneys upon their *own warrant*, without any previous accounting with, or responsibility to, the chief superintendent of finance, the Auditor General.

With these remarks, gentlemen, and commending the whole subject to your best judgment, I could have wished to have dismissed it without further comment; but an incident has occurred during the past season, which gives an aspect to one branch of it, altogether novel; and which brings into question considerations with our relations to the government of the Union, of the most grave and important character.

You are aware, gentlemen, that the attention of Congress has been frequently solicited on the part of the constituted authorities of Michigan, to the importance, in a national point of view, of connecting, by means of a sufficient canal, the vessel navigation of Lake Superior, with that of the immense lakes which stretch down south and east of it; comprising in their range, as they do, more than a thousand miles of an exposed national boundary—washing the shores of *six* of the states of this Union, and one rapidly increasing territory—spreading, increasing, and giving impulse to a commerce already of vast extent and variety—it was supposed that this wonderful group of widely expanded inland seas, was not unworthy the fostering attention of a nation; nor the great interests to which they give birth, undeserving of its far reaching and paternal care. To have opened a communication by a ship canal into that great lake, would have been an undertaking worthy,

it is believed, of the bold policy and elevated character of the nation. To have uncovered the noble forests, to have rendered accessible the exhaustless fisheries, and the surpassing and *immeasurable* mineral wealth of that great country, would soon have requitted the nation too many fold, for the inconsiderable sum it would have cost.

But the repeated solicitations of Michigan, in this regard, proving unsuccessful, its legislature caused the necessary preliminary surveys and examinations at our own expense, to be made, and finding the estimated expense of the work inconsiderable; and even as a *state work*, altogether disproportioned to the benefits likely to result from it, resolved to undertake its construction.

In accordance with this intention, the proper appropriations were made, and contracts entered into, on the part of the state, for completing, forthwith, a large portion of the work. Early in May last, the contractors having made all necessary previous arrangements. A. Weeks, Esq. their agent, (and himself interested in the contract,) arrived at the Sault de Ste. Marie, with a vessel chartered for the purpose, containing the necessary tools, implements and materials, and a supply of provisions for sustaining the men during the summer, and about fifty workmen.

The designated line of the canal passes within about half a mile of the military quarters of the United States troops, called Fort Brady; and in its course intercepts a trench, formerly excavated to lead water to an old saw mill, constructed, it is believed, at some trifling expense, by the soldiers of the United States.

Immediately upon the commencement of the work, it was suddenly interrupted by the officer, then appearing in command at the Fort; the workmen were suddenly ordered to cease further proceeding; and finally, a considerable military detachment, fully armed, were marched upon them. Their agent and all his workmen, were compelled by force to quit the ground; and at much loss, to leave the country, and entirely discontinue their enterprize.

Such is the statement, gentlemen, which has been made to me, of this painful occurrence. For its truth and fairness, in all particulars, I cannot vouch, but it comes so strongly corroborated by the affidavits and documents, which I herewith submit to you, that I felt it to be my duty to present it.

On what sufficient and *constitutional* ground this most unexpected interposition of the strong arm of the national government can be maintained, it is not easy for me to conjecture. If Michigan be *really an independent state*; an *admitted member* of this Union, standing on the same footing with the original states, *in all respects whatsoever*;

if she possesses all those attributes of sovereignty which belong to an independent people, except so far as the same may have been expressly imparted to the government of the nation by the constitution of the United States, or by that sacred instrument placed under its peculiar control, then must Michigan possess the same ample right to establish roads and construct canals, at her pleasure, within her proper borders, as she can have to regulate, in any other respect whatsoever, her own internal police.

Will it be pretended that the Indian title to the ground through which the projected canal was intended to run, has not yet been extinguished? Without adverting to the memorable and successful effort of one of the original states of this Union, to extend its jurisdiction and laws over a country, the Indian title to which remained in full force, guarantied by national treaties; it is sufficient to remark that the Indian title to the lands bordering the Sault de Ste. Marie, appears long since to have ceased. Even in the time of the prevalence of the French government here, it would seem to have been as fully extinguished there, as it was at Detroit, Green Bay, or at any other of its ancient military, missionary or trading posts. And grants of lands emanating from that ancient government, covering parts or the whole of the country in question, are known to have existed. But if the matter were at all doubtful, subsequent treaties by the United States with the Indians of that region, must, it is believed, have put such a question at rest.

Is it claimed, that as the site of the intended canal approaches the military establishment at the Sault, that therefore, the general government may of right exercise the power assumed? It is not understood that the line of the canal encroaches at all upon any ground obtained or reserved for the erection of forts, magazines, &c.; but if it do so encroach, I am not acquainted with any legislative act of this state, which conveys to the United States the right to exercise exclusive jurisdiction over the place in question.

If the United States claim to be a proprietor of the soil, because it has not yet been disposed of, then, except so far as its exemption from taxation, and right to alienate it, in a manner and according to forms, which it may itself prescribe, may have been guarantied to that government, the government itself must hold it as an individual proprietor would hold it, and subject alike, to the right of general jurisdiction and eminent domain of the local sovereignty.

My respected predecessor has casually informed me, that this matter has been the subject of some official correspondence between himself and the high authorities of the United States. That correspondence I have not yet had opportunity to see. It will soon, I trust, be in my

power to present it to you; and in the mean time I shall indulge the entire persuasion, that on *his* part, he has in a creditable and proper manner, asserted the rights of the state; and that its honor, on the preservation of which, in all cases, the moral worth and power of states so eminently depend, will, in this regard, have been fully sustained. When that correspondence shall have been laid before you, gentlemen, you will be fully able to judge what further measure, if any, it may become us, in this exigency, to pursue.

Among the imperative duties imposed upon the Legislature, by our fundamental law, gentlemen, that of providing ways and means to defray the charges necessary for the support of government, will not escape your diligent notice.

At the first view of the condition of our state in this regard, it is painful to remark, that we have no resource for this object, but direct taxation. Should great national calamity then overtake us—should war again occur—a recurrence to a course of direct taxation, for *national purposes*, would, beyond much doubt, become again necessary. In that event, the same subjects would be doubly taxed; and thus, overburthened, a general distress, more or less intense, would supervene.

For such a contingency, most of the “original states,” and some of the new, are probably far better prepared than we are. By a prudent forecast, they have secured funds, to which, in any pressing exigency, they may always resort. The unseated and waste lands, within their respective limits, being rightfully possessed by them, constitute, of themselves, a source of enduring and copious supply. To this ample source, the new states west and north of the Ohio and Mississippi, and especially our own state of Michigan, have not hitherto, been permitted as of right to resort. The copious streams, in which the surplus revenue of the general government recently flowed into the coffers of the several states, have disappeared; more than half a million of dollars of that, and of the five per cent fund, which accrued to Michigan, has been received—expended—and is gone. And if direct taxation constitute now our only resource, how necessary is it, that a more unyielding economy, and a far more strict accountability should give character to our future progress.

With these principles, allow me to say, gentlemen, a greater certainty than has heretofore prevailed, and a more perfect equality in the distribution of the burthens which we must bear, ought to be most studiously combined. The absence of these qualities in our system, was glaringly apparent in the early stages of our government, and tended, as similar defects always do, not only to produce confusion in our finances, but to aggravate to a deplorable degree the evils of taxation.

To obviate these defects in the assessment and collection of the state and county taxes, as far as practicable, without discarding the whole system, was the manifest and principal design of the act of last year. To what extent that law was productive of so desirable results, can be better ascertained, when the reports of the fiscal officers of the state shall have been made to you. So far as I can form opinions, from indirect and *unofficial* sources of information, I am led to believe that the operation of the law has been, in those respects, successful and salutary. Indeed, I do not learn, that the assessment of the general state tax during the past year, have any where led to injustice, or been the subject of any well grounded complaint.

I cannot, however, withhold the expression to you, of my opinion, that in these respects the existing provisions relative to the assessment and collection of the highway taxes, and the taxes for the support of schools and the erection of school-houses, are most justly obnoxious to censure.

If uniformity—if certainty—and if a fair, just and proportionate equalization in the distribution of the burthens of government, be desirable in any system of finance, and essential to the prosperity of a state, then does this branch of the subject commend itself to you, with strong claims upon your corrective power.

When the forms of the existing law are applied to the purpose of compelling the proprietor of an uncultivated tract of six hundred and forty acres of land, situated in an uninhabited part of a county, remote from any public road, to pay at the hazard of losing his land, a contribution of forty dollars, under the name of a road tax only, when the aggregate amount of the whole of the state and county taxes, for the same period, and on the same tract, is only six dollars and forty-four cents; the inference is irresistible, that injustice is done; a blot is fastened upon the character of your law and of its administrators; and the proprietor of land in your state, with a deep sense of oppression practised, sells his property for what he can obtain, instead of making it a home for himself or his children, and removes to a state where the laws are less made instrument of injustice. This is but one illustration of the evil, I fear, among multitudes which might be produced; and I have reason to fear that instances of oppression and capricious inequality, far more offensive, arising under the system of taxation for school and school houses might be alluded to; but it cannot be deemed necessary to go into detail. That the provisions of the existing law in these respects may lead to oppressive injustice; that they do place it in the power of a few unjust men, in the small and scattered population of many road and school districts in our state, to consummate

acts offensive to a just equality to good faith, and to the reputation of our country, itself would constitute a sufficient motive for your scrutiny and for your efficient and corrective action in the matter. In the event of your finding the evils alluded to, to exist in such degree as to demand further legislation on the subject, then I respectfully submit to your consideration, the propriety of withholding from those, who in the several townships, road and school districts, are now competent to assess any tax for such purposes upon lands, whether under cultivation or in a state of nature, all further power to do so; and in lieu thereof, so to vary the provisions of the laws for assessing and collecting state taxes, as that an ascertained proportion of the general state tax, be paid over, annually, under proper regulations, to those local officers, to whom the law properly confides it. Such a modification of our system, though it would doubtless be productive of some inconveniences, would nevertheless tend, I think, to secure a beneficial uniformity in the rate, greater certainty and cheapness in the collection, and a desirable simplicity in the process; while at the same time, it would furnish a better guaranty against unjust and unequal taxation for such objects.

But, gentlemen, it is mournful to reflect, after exerting your most zealous efforts to provide the best guards which legislative wisdom can devise, against negligence and abuse of trust on the part of our public officers; and after having infused into the operation of every department, a careful, vigilant and well balanced economy, that there should still remain evils in the bosom of the state, which no effort, no skill of ours can thoroughly eradicate.

We have had the misfortune to see our general currency reduced from a condition of the most enviable excellence, to that of almost utter worthlessness. It has been for the greater part, either driven from circulation, or has become palsied, diseased and poisoned. How can we indulge the hope while this state of things continues, that the prosperity of our country will be restored? Is not a sound and available currency the life-blood of commerce? Ask the merchant. Is it not equally indispensable to the artist? How, without it, can he obtain a subsistence from his labor? And the melancholy truth is now brought home to us all, that for want of it, the ample products of our own soil—the richest fruit of the toil of the husbandman, are in imminent danger of remaining a mass of useless rubbish in his yard and granaries, *because a safe and convenient currency can alone* furnish the avenue through which an appropriate market can be found. In all the operations of society—in all the transactions of social, commercial and political life, such a currency as that which has been recklessly thrown

away, is indispensable to our prosperity. Under the influence of it, commerce flourished, the arts were advanced, the agriculturist realized the full benefit of his toil, the whole country prospered. These things are within the recollection of us all. It has been well observed, that "*history is philosophy, speaking by example.*" And the history of our own country, from its very commencement, is full of admonition, relative to the public currency. It is only requisite to turn over a few of its pages, to discover the excellence of that we have lost, and the folly of losing it. It is worthy of all remembrance, gentlemen, that experience has always been found a better standard by which to test the merits of human institutions, than *untried* experiments, metaphysical speculations, or fanciful hypothesis. How much then is it to be regretted that our national rulers should not have been disposed to profit by its lessons, and to "let well enough alone." *Effectual* remedy, then, for the evils which press so heavily upon us, can be applied, in my view, only where those evils originated—in the councils of the nation; and there happily, your opinions may not be void of effect. I would recommend, therefore, to your consideration, the propriety of a clear and full exposition to our representation in Congress, of the sentiments you may entertain on this interesting subject. But, gentlemen, to limit your efforts to a mere expression of your opinions on the subject of the national currency, to our own delegation in Congress, and on the projects relative to it, now probably in discussion in that respectable body, would not sufficiently meet the present exigency, nor fully satisfy the expectations of our constituents. If it be practicable, something should be done, if it even be temporary merely in its operation, to relieve against the evils which exist, and the still more serious ones, which seem approaching. Although it may be very manifest, gentlemen, that your powers are not sufficiently ample to enable you to establish a national currency, yet it has unfortunately been made too apparent, that by local legislation, the evil of a bad general currency may be greatly aggravated.

The wretched consequences that resulted from the "Act to organize and regulate banking associations," and the several acts which have been passed amendatory of it, will long be remembered as a caution to future legislators, against the too hasty substitution of utopian theories, for practical and well settled systems, which have the sanction of experience. It may nevertheless be presumed, gentlemen, that by some cautious and well devised plan, you may be so fortunate, as to assuage, if you cannot effectually remove, that distress resulting from the disordered condition of our general currency, which has for the last two or three years been so destructively increasing among us, to create, or to induce the creation of a local circulating medium, even if it were

to operate as a temporary, and a palliative measure only, would be a desideratum. The great difficulty which has hitherto defeated every effort which has been made to attain this object, seems to have been the want of a sufficient specie fund, upon which to found the requisite issues of redeemable paper. The injurious influences of the *specie circular*, together with the great money pressure in our Atlantic cities, and perhaps other causes, have, in combination, caused the withdrawal from circulation of most of the precious metals in the state; the consequence of this has been, to render it impracticable, in a very great degree, for those banking institutions of the state which have in general so well sustained their credit and good standing through all the difficulties of the crisis, to collect, in available funds, the debts which are due to them by our own citizens; without producing the most general and aggravated distress; and not being able to replenish their vaults with specie, by calling in their debts, become of necessity disabled from extending their discounts by further loans.

The new bank, contemplated by the act of last year, has hitherto been prevented from going into successful operation, by, I believe, the same reason, viz: the extraordinary withdrawal of specie from circulation, by like operating causes, both here and abroad. The difficulty then, it is perceived, is one of great magnitude. Nor has it failed to produce still another in its train; for the bills of the unsound banking institutions of the state, having utterly and properly lost their credit, and the older and better institutions of the state, while by a rapid progress, they were fast drawing in such of their bills as remained in circulation, being at the same time unable, with safety, to re-issue them, or to supply their places by others; the result was, that all the available bills of the banks of other states that could be got at, were sent, as well as all other funds that could be collected, in the shape of remittances, to pay the debts of the country to the wholesale dealers of the Atlantic cities. So that from the best information I can obtain, there does not remain in the country more than one sixth part of the circulation which is essentially necessary for the local business operations of the state. Hence, it is said, that there not only does not exist, in the circulation of the whole state, currency enough even to transport the surplus products of the state to their proper market, but scarcely enough even to pay the taxes assessed, and in course of collection for the past year.

While the circulating medium of the state was rapidly approaching the crisis I have endeavored briefly to describe, another painful event occurred to darken the picture and to render still more dense the gloom which surrounded it. The Pennsylvania bank of the United States, and

almost simultaneously, all the principal banks, it is believed, south and west of it, suddenly suspended specie payments; and from necessity or from choice, the principal banks of Michigan followed, and still pursue the inauspicious example. Such, gentlemen, is the deep depression into which the circulating medium and money capital of our state have fallen. Such are the appalling evils from which our constituents turn to you for relief. They appeal to your love of country, and to your matured judgments. They invoke your sincere, cautious, and untiring efforts. They put their claim into your hands and ask for relief. And happy will it be for us, if, when soon we separate again for our several homes, we carry with us a consciousness, that, by the blessing of God, *some* good at least will have grown out of our endeavors to restore the prosperity of our adopted and beautiful state. Stimulated in our exertions by considerations such as these, it is natural and proper that we should examine more closely into the condition of our country in other aspects it presents. And do we not find, notwithstanding the factitious evils that have been brought upon us, that our flocks and herds have increased beyond our utmost expectations? Do we not find that the bright smiles of Heaven have rested upon the toil of the agriculturist, and upon the whole productive industry of the country? Besides the abundant yield of all the other products of the field; observing and intelligent men, have computed the surplus amount of wheat alone, beyond what will be wanted for consumption in the state, at three millions of bushels. And when, and where, was it ever heard of, that a people inhabiting a healthy and fertile country like this, abounding in all the necessities of life, and with a surplus in a staple article like wheat, of three millions of bushels, had become bankrupt? In fine, I am not willing to believe, gentlemen, but that an alleviation, at least, may be found even in local legislation, for the evil which presses so heavily upon the country. If the surplus products for the state for the past year, could find its way to market, it would go far to relieve the severity of the pressure. And all that appears necessary to effect that object, would seem to be, such present increase of our bank issues, as would enable purchasers (the commercial men of our country, perhaps,) to transport it to market. It will be recollected with pleasure, with how great facility your predecessors were enabled, during the last year, to relieve the necessities of the government, by the negotiations entered into in virtue of the provisions of the act to authorize the Auditor General to obtain money on the credit of the five million loan, from the banks of this state.

An adequate increase of the issues of the banks, or some one of them, may be again induced, perhaps, if no prospect should exist of the immediate organization of the State bank, upon principles which may be safe and just to the state and to our constituents, upon a similar disposi-

tion, or hypothecation, of other accruing instalments of the five million loan. If you should deem it expedient to enter into any negotiations with either of the existing banks, with reference to such an object, a proper caution would render it expedient, that such negotiations should be delayed until by some appropriate committee, a *thorough* examination should have been made into the affairs of such banks, and into the causes of their suspension of specie payments. This it may be proper in any event to do, with a view to ascertain how far the suspension of the Pennsylvania bank of the United States, from which the large instalments assigned by the Auditor General to our banks, are to accrue, may have contributed to produce, or may enforce the continuance of the suspension here.

I would then respectfully recommend that such appropriate committee be appointed at an early day, with instructions to effect a sufficient and thorough examination into the affairs of our principal banks; not doubting, but that such expositions will be obtained as will satisfy you and the country, that an arrangement may be safely entered into with a view to such reasonable increase of our circulating medium as, by the operations of commerce, may obtain for the surplus produce of our country a fair and ready market. With these observations, gentlemen, I commend this whole perplexed and interesting subject to your careful consideration, and complicated and difficult as it certainly is, I yet cannot suppress the expression of my sanguine hope that the results of your labors will go far to ameliorate the condition, and restore the confidence and prosperity of our state.

There are several topics, gentlemen, not yet alluded to by me, in respect to which I shall feel it to be my duty again to address you. I have endeavored now to present to you only such as might seem to solicit, by the deep interest involved in them, your earliest attention; and I ask leave further to remark, that in the important business of legislation, as in all other affairs of life, it is better to confine our attention to but few subjects at a time, and that *they* may be most thoroughly understood and finally settled, upon principles which will bear the test of experience; than to undertake many without the time or the capacity to perfect them. All innovations, too, upon *established* systems, however important and necessary they may be, should, nevertheless, be made with the utmost care and the most cautious circumspection.

No aid, in my power to render, gentlemen, in the prosecution of your arduous and important duties, shall be withholden; and it only remains for me now to invoke upon your labors, the favor and protection of that God, without whose blessing the utmost efforts of man are but "vanity and vexation of spirit."

WILLIAM WOODBRIDGE,
Governor of Michigan.

January 11, 1840

From *Journal of the Senate*, pp. 67-70

To the Senate and House of Representatives:

I have the honor to present, for the consideration of both branches of the Legislature, that on the thirteenth day of March, one thousand eight hundred and thirty-eight, Henry Howard, Esq., was appointed, in pursuance of the provisions of the second section of the seventh article of the constitution, the State Treasurer of this state.

That it appears by the executive record, in the department of State, that on the twenty-seventh day of April, A. D., one thousand eight hundred and thirty-nine, Henry Howard was appointed, "during the recess of the legislature," by a commission, to take effect on the first of May, 1839, Auditor General of this state, in the room of Robert Abbott, Esq., resigned.

That on the same twenty-seventh day of April, one thousand eight hundred and thirty-nine, "during the recess of the legislature," the Governor appointed Peter Desnoyers, Esq., to be State Treasurer of this state, in the room of said Henry Howard, by a commission, purporting to take effect on the first day of May, one thousand eight hundred and thirty-nine.

Although I can find no evidence of record in the executive journal, of the respective resignations of Robert Abbott, Esq., as Auditor General, and of Henry Howard, Esq., as State Treasurer, other than is implied in the entries above alluded to, nor of the subsequent qualification of the said Henry Howard, as Auditor General, and said Peter Desnoyers, as State Treasurer, yet little difficulty will be encountered, I apprehend, in arriving at the conclusion that Messrs. Abbott and Howard actually resigned their respective offices on said twenty-seventh day of April last. The subsequent assumption by Mr. Howard, of the duties of an office entirely incompatible with those of State Treasurer, and his official report to you, recently made in the character of Auditor General, sufficiently establishes the fact, I think of his previous resignation of the prior appointment.

The office of State Treasurer being thus vacated, it became the unquestionable duty of the Governor to fill that vacancy. The terms of the twelfth section of the fifth article of our constitution which relate to this matter are peculiar; they expressly confer upon the Governor the "power to fill such vacancy by granting a commission, *which shall expire at the end of the succeeding session of the legislature.*" Taken by itself, and without reference to the rest of the instrument, a slight view of this clause would naturally lead to the supposition, that such temporary appointment, must in all events, continue until the end of the session; and

the question immediately presents itself, whether it be competent for the legislature, by any action it may take, to terminate it at an earlier period? Now, I know of nothing more hazardous, nor more to be deprecated, than the application to our fundamental law, of such loose rules of construction as may lead to a direct conflict with its express provisions, or to the assumption of powers by the legislature, or by any other department of the government, not clearly granted. But this revered instrument must be construed by itself; it must be so construed as that *all* its different provisions may harmonize; it must be so construed, as that effect may be given to its leading principles.

By the eleventh section of the twelfth article of the constitution, it is provided that when a vacancy shall happen, &c., "the successor thereto, shall hold his office for the period which his predecessor had to serve, *and no longer*," &c. If, then, this session of the Legislature should continue until after the period defined for the expiration of the term for which Mr. Howard was, on the 13th of March, 1838, appointed, a case would be presented of direct conflict between the provisions of the eleventh section of the twelfth article, and such construction of the twelfth section of the fifth article, as would require that *in all events* the gubernatorial appointment should continue until the end of the session. To require such a rigid construction, would also tend to the absurdity of supposing that the incumbent so appointed by the Governor, was not, like all other officers of the government, subject to removal by impeachment or otherwise; thus placing the appointment of the State Treasurer, when *made by the Governor*, (who is not ordinarily vested with the authority in any shape to interfere in his selection,) beyond the reach of the legislature itself. But why is it, that while the chief executive magistrate of the state is intrusted with the power to nominate the incumbents of all the other principal offices of the government, yet, that with respect to the keeper of the public moneys, that power is cautiously withheld from him, and the full power of selection and appointment is vested in ordinary circumstances, *exclusively* with the Senate and House of Representatives? Manifestly, because *he* who is "intrusted with the sword," ought not, in ordinary circumstances, to have also the custody of the public purse, nor control over its keeper.

Any construction of the clause in question, then, which would *frustrate this intent*, and conflict with this clearly disclosed principle, is to be avoided, unless positively enjoined by the constitution itself. I do not deduce any such injunction from the terms of the constitution. The true reading of the clause taken in relation to the context, and to the clear intent manifested throughout the whole instrument, seems to me to be, that the actual incumbent, appointed by the Governor solely, in the recess of the legislature, holds his office until the termination of the

next succeeding legislature, unless it sooner become vacant by his abdication, death, resignation or removal, or by the previous action of the legislature.

Entertaining these views, I deem it my duty to recommend to the Legislature the expediency of proceeding to the appointment of a State Treasurer, to supply the vacancy occasioned by the resignation of Henry Howard, Esq., for the residue of the term for which he was appointed, on the 13th of March, 1838, and also, forthwith thereafter, to appoint a State Treasurer for the two years, to commence from and after the term, aforesaid.

In placing before the Legislature this recommendation, and these views, I have endeavored to perform a constitutional duty.

If I have entered more into detail than might seem proper, my excuse will, I trust, be found in the importance of the subject, and in the delicacy of putting a construction upon our fundamental law, the tendency of which, is, to assert the powers of the legislature, in a matter, which to some may seem doubtful.

Having myself, neither the power nor the wish to dictate, I respectfully present the subject to the Senate and House of Representatives, where unquestionably the power to decide resides.

WILLIAM WOODBRIDGE.

January 27, 1840

From *Journal of the Senate*, pp. 151-156

To the Senate and House of Representatives:

It is fully in your recollection, gentlemen, that our fellow citizens have recently expressed their opinions in relation to a proposed change in an important feature of our constitution.

Everything which, even in the most minute particular, affects that solemn instrument, at once assumes a momentous character. We have all gravely *sworn* to support it; it is *from* it, and through it, that the legislature derives all the political power it can exercise; it furnishes the only sanction which its official acts can possess; and while it protects the inestimable civil rights of every citizen, it announces also, in all things of which it treats, the authoritative and sovereign will, of that whole people, whose appointed agents we are. Whatever then affects its construction, or brings into question any of its provisions, is entitled to our most serious consideration. But what *barely human* institution can claim to be exempt from those imperfections which are incident to our nature? none! The framers of our constitution were sensible of this truth; and most wisely, therefore, they provided a mode in which its

imperfections, when practically discovered, might be adequately corrected; and by which, without disturbing the harmonies of government or inducing any destructive convulsions, it might, from time to time, be made quietly to accommodate itself to the varying and successive exigencies of our future progress. The legislature of 1838, was of the opinion that it would be beneficial to change it, in regard to the exercise of the right of voting. That body accordingly introduced, and passed through the forms required, a resolution proposing certain amendments to the constitution of the state; and the resolution was printed and published with the legislative acts of 1838.

The subject was again passed upon at the session holden [sic] in 1839; and with the laws of that legislature, a resolution entitled "A joint resolution relative to an amendment to the constitution," was published, which comprises the same matter.

Influenced, concerning every thing relative to our fundamental law, by the sentiments I have avowed, I have deemed it essential to present to you a statement of such proceedings, as may have been had, consequent upon the first introduction of this measure; and especially such as do not consist of legislative action merely.

If, upon a full examination of this statement, and of the whole matter, it should be manifest to you that the mode prescribed in the first section of the thirteenth article, for amending the constitution, has in all things been strictly pursued; and that the amendment proposed, has been fully approved, sanctioned and ratified, by the people of this state, then I would respectfully recommend the passing, by you, of a legislative act, solemnly declaring the fact, and that the amendment alluded to, has been ratified and adopted, and has become part of the constitution of this state.

But if, upon such strict examination, you should find fatal irregularities in the proceedings which have been had, and that the mode indicated by the constitution itself, for effecting such amendments, has not been pursued, I must submit it to your wisdom to devise such ulterior measures, as respect for the expressed opinions of our constituents, and a due regard also to our own powers, prescribed and limited as they are, may seem to call for.

I submit, then, herewith, the statement which I have received from the Secretary of State, in compliance with my requisition upon him.

That statement sufficiently exhibits, I think, the wishes of our constituents in the matter submitted to them; and leaves little further to be inquired of, except as to whether the process, from the beginning, has in all respects been in conformity with the provisions of the constitution itself?

Upon an examination of the journals of the Senate and of the House

of Representatives, of the session holden in 1838, with reference to this object, and in tracing the same measure through the journals of both houses, at their succeeding session in 1839, I indulge the hope that you may finally rest satisfied, that in all essential particulars, the process has been such as is warranted. But there is an ambiguity in the journal entries concerning the matter, and an obscurity hanging over the whole subject, which is perplexing and painful—yet nothing should be more clear—nothing should be more free from doubt, than our organic and fundamental law. It is peremptorily required by the twelfth section of the fourth article of the constitution, that “each house shall keep a journal of its proceedings, and publish the same,” &c.; and being published, according to this expressed injunction, it constitutes a species of evidence of the highest grade; it requires a sort of sanctity even, which may well challenge the entire credence of the whole community. It ought then to be kept with a degree of caution and correctness corresponding with its high importance; and especially in a matter so grave, it should be full, clear and explicit.

I will not trouble the Legislature with the process, nor the results in detail of my own examination of the journals of the two houses, for the two successive sessions, during which the measure in question was necessarily pending. Whatever complex questions they may present, and whatever ambiguities may hang over the subject, I have, nevertheless, deemed it principally important, to ascertain whether, without regard to any supposed irregularities, (except such as directly conflict with the mandatory requirements of the constitution,) the requisitions of that constitution have been substantially complied with? and these inquiries, I think, gentlemen, are very appropriately and necessarily referable to the scrutiny, and the wisdom of the Legislature.

But I am unwilling, gentlemen, finally to commend this subject to your earnest consideration, as I do, without adverting to an important fact which is collaterally disclosed, in the report of the Secretary of State, viz: that the votes of some of the counties of the state were excluded from all computation, by the canvassers. I hazard nothing in saying, gentlemen, that this is not as it should be. I am not, in this, to be understood as intending to cast the slightest censure upon the gentlemen who officiated as canvassers. On the contrary, so far as the circumstances are made known to me, those gentlemen, could not, properly, have done otherwise than they did. It is our pride, gentlemen, and our boast, that ours is a government of *laws*, not of *men*. The course of the gentlemen who officiated as canvassers, was prescribed for them by the law, and they *could not violate the law*, in order to *give effect* to the law.

It furnishes cause for satisfaction, no doubt, that the final result

would have been the same, if all the legal votes had been counted; but this fortuitous event does not satisfy justice, nor in any wise lessen the destructive evils, almost certain to follow in the course of such precedents if suffered to pass unreprieved. In truth, there is no so important political right, in a republican government, like ours, as the right of suffrage. Crime may, for a time, go unpunished; society may be convulsed by desolating disorders; faithless public agents, unprofitable and reckless rulers may be appointed. For all such evils, we may confidently look for redress in the virtuous, honest and *protected* exercise of the hallowed right of suffrage. It is to this right, we are to resort for a corrective to all existing political evils; it is this which furnishes the only recognized and appropriate medium, through which the sovereign will is to be expressed. There is no political right, therefore, which demands so constant, so scrupulous, so vigilant protection.

Although final results may not have been varied by the exclusion of the votes of so many of our fellow citizens, yet it was not less their *right* that they should have been *counted*; and why were not the rejected votes sent in by those whose sworn duty it was to do so? Why were the votes of Washtenaw, Kalamazoo and Allegan too, detained, (as would seem to have been the fact, by the report of the Secretary of State), until special messengers were sent for them? And why, the proper returns having in so many instances, now and heretofore, been thus *illegally* kept back, does it happen, that we hear of no convictions upon criminal prosecutions, or of no punishment, for so dangerous and so frequently repeated a political offence?

By the provisions of chapter nine, title two, part one of the revised statutes, such neglect was probably intended to be punished by fine or imprisonment, and after conviction, by amotion from office. Is there want of certainty in these statutory enactments?

Are the duties enjoined upon the county clerks or other county officers, too vaguely described? are those offences inadequately defined?

For such defects, if they exist, there can be little doubt but that you will be enabled to find appropriate remedies; and if you should entertain the belief that conviction and final amotion from office, in cases of the actual neglect of so vitally important duties, follow too tardily the commission of the offence, I think it quite competent for the legislature, without the violation of constitutional right, to provide, upon a *prima facie* showing of guilt to the proper authorities, for the immediate suspension of the incumbent charged, until the tardy but sure judgment of the law shall have been pronounced.

While I feel that it would be improper in me, gentlemen, to solicit your attention to many objects which might seem to warrant your legislative interposition, lest you might think such a course would tend to

protract too much your present session, yet I venture respectfully to recommend this particular subject to your early consideration.

WILLIAM WOODBRIDGE.

February 5, 1840

From *Journal of the Senate*, pp. 202-205

To the Senate:

I transmit to the Senate, for the use of the two houses, a communication recently made to me by the Auditor General. I earnestly commend it to the consideration of the Legislature, and I do not hesitate to recommend that an act be passed to give effect to the views it presents. The greatly increased and continually increasing duties of the office of Auditor General, render it, in my opinion, indispensable, that adequate provision be made for the employment of a competent number of clerks, and that like provision be made for meeting all other incidental expenses of the office. That officer is of the first importance in the state. As the chief superintendent of our finances, almost every thing connected with the pecuniary means and resources of the republic, is, to a great extent, and necessarily, in his control. In him, spotless integrity and untiring industry are indispensable; a scientific knowledge of financial affairs, great soundness of judgment, and a far-reaching and expanded comprehension are likewise of the utmost importance. The services of such a man cannot be obtained by "setting the office at auction, to be struck down to the lowest bidder;" and as the proper performance of the duties of that office, especially in the present condition of our affairs, will necessarily require the constant and devoted attention of the incumbent, his private concerns must as inevitably be more or less neglected. It is proper, therefore, that his compensation should bear some fair proportion to the value of his services, and essential that all the necessary and incidental expenditures of the office should be provided for by law. The views presented are strongly enforced by the forcible recommendations contained in the report of the late Auditor General, and in the fact, that year after year relief has been sought for, or provision has been made, by grants contained in general appropriation laws, to meet such exigencies. But, for the reasons I have stated on a former occasion, I entirely disapprove of that last mentioned mode of meting out a fair compensation. If it be difficult to anticipate with sufficient certainty the probable amount of such contingent expenditures; and if, as the proper guardians of the public moneys, the Legislature should choose to exercise a controlling power over its disbursement, (a precaution which in republican governments is most commendable) then, while a limit

is assigned beyond which such charges shall not extend, let the officer be holden to strict proof, and to a full accountability, to each successive legislature which may audit such accounts. And, however customary it may have been to incur heavy expenses, trusting to such influences as may be made to operate upon the minds of a future legislature, for remuneration, through the means of a general appropriation law, yet I entirely commend that scrupulous morality, which should at all times restrain an officer from incurring pecuniary charges in the name of the state, unless in cases previously sanctioned by existing law.

There is another consideration connected with this subject, not unworthy of regard perhaps; such a course leads to erroneous opinions on the part of the people, whose money it is, as to the manner of its expenditure. The compensation allowed to the Attorney General, for example, generally presumed to be five hundred dollars per annum, that being the fixed salary established by law; a critical examination of the reports of the accounting officers of the state and of the appropriation laws, will show how erroneous that general opinion may be. The compensation, for performing the duties assigned by law to the office of Governor of this state, purports to be two thousand dollars per annum; but a review of the accounts of the internal improvement funds, the reports of the fiscal officers of the government, for instance, for the year ending in December, 1837, and the appropriations made for house rent, or for gubernatorial services performed by the Lieutenant Governor during that year, will show, not perhaps that the representatives of the people have been unjust, but that a statute fixing compensations, made under the particular sanction of the constitution, leads to delusive conclusions.

In every point of view, it seems to me proper, that whatever is allowed for compensation should be limited, and for incidental expenditures, should, as far as practicable, be sanctioned by previous law. The remarks I have ventured to submit in regard to the office of the Auditor General, are, in many respects, applicable in almost equal degree to the State Treasurer. But it would be an error to infer from them, any reluctance on my part, most cheerfully to acquiesce in every such just and appropriate measure, as the Legislature may devise, for decreasing the public expenditures, for securing a more strict accountability on the part of public officers, and for multiplying checks against wasteful disbursements; on the contrary, I remain of the opinion, that the board of commissioners of internal improvement ought to be abolished, and if any, that a far less expensive and more economical plan for progressing with our public works, be established; that all duties connected with the receipt and expenditures of the common school and university fund should be transferred, under proper regulations, to the offices of the

Auditor General, and State Treasurer, and that the salary of the Superintendent of Public Instruction should be greatly reduced. That the office of librarian should be abolished, and the care of the public library transferred to the state department, and that the salary of private secretary of the Governor be abolished, and that during the setting of the Legislature, a per diem, or other suitable compensation be substituted for transcribing public papers, and serving as a medium of communication between the Executive, as one branch of the legislature, and the Senate, and House; or, if it seem to the Legislature more expedient, that the offices of librarian and private secretary, be consolidated, and the duties of each be performed, upon a reasonable compensation, by the same officer. But while I in no wise seek to avoid the performance of a duty in recommending these or any other more appropriate measures, having the objects I have indicated in view; yet I submit them as well as the accompanying remarks, with all the deference which is due to the practical good sense, and the superior wisdom of the Senate and of the House of Representatives.

WILLIAM WOODBRIDGE.

February 21, 1840

From *Journal of the Senate*, p. 284

To the Senate and House of Representatives:

Gentlemen—I have been advised by the Auditor General that an informal proposition has been submitted to him by the Morris canal and banking company, for modifying the terms of the contract formerly entered into with that company, relative to the five million loan. This proposition, I understand, contemplates the extension of the time of the payment of some of the instalments provided for, and tendering of further security for their punctual payment. The details of the proposition I am not acquainted with; but the intrinsic importance of the whole matter, is so very great, as in my view to justify an effectual examination into it by the Legislature without any unnecessary delay. I, therefore, recommend the appointment of a joint committee of both houses, with instructions to confer with the Auditor General and State Treasurer on the subject, and to report fully to both houses, by bill or otherwise.

WILLIAM WOODBRIDGE.

February 21, 1840

From *Journal of the Senate*, pp. 286-288

To the Senate and House of Representatives:

Gentlemen—I have received from the authorities of New Jersey, authenticated copies of certain joint resolutions, which have passed the legislature of that state. They relate to the extraordinary exclusion, from their seats in Congress, of five of the six representatives, to which, by the fundamental principles of the constitution of the United States, New Jersey is certainly entitled. Conformably with the request of that legislature, I herewith submit those resolutions to you; and I commend them to your serious consideration.

If it be the natural tendency of our great central government, as many wise statesmen have feared, to add to its strength, as it progresses in years, and as it becomes habituated to the exercise of power, gradually to become regardless of right, then it is most true, that the weaker parts of the general system—that the just rights of states, can be preserved only at the expense of constant vigilance.

We, gentlemen, represent the rights and the interests, the dignity and the independence; we are the appointed guardians of one of the integral and component parts of this great nation. We must not remain silent and unmoved, while a power is being assumed and a precedent is being hazarded by the national authorities, whose ultimate tendency may be, fatally to disturb the harmonies of our complicated system; or to bring into danger all that is most estimable in our institutions!

The treasure, the utmost strength, the best blood of our fathers, were expended in obtaining the freedom and the independence of our common country, the learning, the wisdom, and the unsullied patriotism of our ancestors, combined to devise and establish forms of state government, of unequalled excellence; and through the smiles of a benignant and approving Providence, the great work of the revolution, was crowned by our blessed Union. To us, their children, in common with our fellow citizens of the other states—this Union, the constitution of the United States, which seals it—all these great blessings were committed, for preservation and protection; nothing can excuse a neglect of the sacred trust.

How far the grievance set out in the preamble and resolutions which I communicate to you involves principles of so vital consequence, I respectfully refer to your deliberate attention and considerable judgment.

That you may the more conveniently review the whole subject, I likewise herewith communicate to you, a copy of the special message of the Governor of New Jersey, with the documentary matter appended to it. These exhibit, as well, the reasoning as the facts upon which the action of that legislature was founded.

Though not specially requested to present these documents also, to you, yet the statement they contain, and the earnest and dignified view which is there taken, by the Governor of New Jersey, presents a cause so imposing that I cannot doubt the propriety of making that also, a subject of this official communication to you; and if upon a calm and careful consideration of the subject, you should be of the opinion that wrong has been done; that a wound upon the dignity and honor of that venerable and exemplary state, has been sought to be inflicted, the course of duty seems clearly indicated; it is, that in terms, tempered by a forbearance and respect becoming a young and feeble member of the confederacy, but yet with a manly frankness which belongs to the representatives of a free and sovereign state, you remonstrate against the injustice done; that you protest against a precedent so replete with danger to the interest and safety of the Union; and, that you cause your sentiments to be made known in an appropriate but respectful manner to the Congress of the United States, and placed also among the archives of our sister states.

WILLIAM WOODBRIDGE.

March 7, 1840

From *Journal of the Senate*, pp. 389-412

To the Senate and House of Representatives:

Gentlemen—The accompanying document has reached me within the last few days. Though not authenticated in the customary manner, I have no reason to doubt of its genuineness; and the respect which is due to the public authorities of a sister state, obliges me to lay it before you.

It purports to be a copy of certain resolutions of the legislature of Vermont, relative to the public lands; and the scope of them seems to be, a request to the delegation of that state in Congress, that they cause to be passed, by the national legislature, a law for the distribution among the several states, of the proceeds of the public domain "according to the terms of the deeds of cession;" and that "they oppose any measure calculated to promote the eventual surrender of those lands to the states in which they are situated."

This demonstration on the part of Vermont, unfortunately, does not stand alone. I have witnessed, with much regret, recent and increasing evidence in several of the "original states," of sentiments, on this topic, less characterized by an elevated generosity worthy of their strength

and our weakness, than by a bias, which savors of unkind suspicion and of local interest.

These ominous movements are deserving of your consideration; and the deep interest which Michigan must take in the agitation of that complicated and engrossing subject, would seem to render proper, some exposition of its history and character. In behalf of those new states, whose interests seem endangered by these hostile sentiments, it may be assumed, that every political community, justly claiming to be "sovereign and independent," must necessarily have the right of exclusive control over the territory which is within its actual limits. As a general proposition, this will hardly be controverted.

Such a community may construct roads, excavate and establish canals, levy taxes, and exclusively regulate, according to its own pleasure, its entire domestic policy. As a consequence of that general proposition, and in strict analogy with it, it may also be affirmed, that every such community may reclaim the wilderness, and of right possess itself *in full property*, of the waste and unappropriated lands within its acknowledged borders. If this principle were doubted of, it would be sufficient to refer to the history of most of the "original states," for its illustration and entire recognition. It constitutes, indeed, the foundation of the right uniformly urged by them, both now and heretofore, to the wild lands within their limits, respectively. It is the *title* by which they hold them. Upon what other principle did Virginia ever claim a proprietary interest in the vast wilderness, which, but lately, stretched westward from the Allegany mountains? Was it from the charters of a British monarch? They had long been abrogated. Was it from the *pedal* passions of her citizens? They were not so possessed. But when she asserted her independence, and the cords were severed which bound her to her parent government, the "crown lands," she claimed; and she pointed to this acknowledged attribute of sovereignty for her proof of right! And Vermont, too, whose resolutions are now before you, and so many of whose sons Michigan is now proud to enrol among her most valuable citizens; did she not also assert the same principle; and in a manner too chivalrous to be soon forgotten? What page in her history would she not sooner blot out than that which records the assertion of her own independence; and her consequent seizure and appropriation to herself of the public domain within her actual limits? The *same* page also records the marking of her *own* boundaries with her own true sword, cutting through the royal "deeds of cession," and the ancient charters of New York and New Hampshire; her spurning of the proffered seducements of the enemy; and then her Spartan firmness, her gallant bearing, and her heroic achievements in the common cause of freedom! And who will compute the quantity, or estimate the value of those wide-

spread "crown lands," which have been claimed on no other right, and retained *on no other principle*, by the Carolinas and Georgia, by Massachusetts and Connecticut? The continued and successful assertion of this right, did not fail, indeed, to produce uneasiness; nor was it acquiesced in by all the states without great reluctance. Long prior to the close of the war of the revolution, the subject of the public domain had become the cause of intense solicitude and jealousy. Some of the states contained, within their actual boundaries, but a small amount of it; others within their asserted limits, many millions of acres; and since the burthens of that war pressed heavily upon all, alike, in proportion to their numbers, so it was insisted that the eventual and contingent *benefits* of the struggle should also enure to each alike.

This controversy was greatly aggravated by the fact, that the claimed limits of the several states were not sufficiently defined, and interfered with each other; and this perplexity again threatened to become the cause of still more dangerous contention. To secure justice to all; to quiet the prevailing jealousy, and to reconcile so many jarring interests, as well as to obtain for itself available resources to defray the expenses of the war; the Congress of the confederation, repeatedly, and most earnestly, pressed its invitations upon those of the states, claiming large quantities of this domain, to cede it, in fit proportions to the common good. As the most operative inducement to such cessions; and also that when ceded, those lands might be rendered the more desirable, and consequently be rendered more certainly and at an earlier period, available for the purposes for which they were wanted; by early and advantageous sale, it was constantly avowed by that body, that the tracts so to be ceded should be "laid out and formed into republican states," and that when, by the sales to be effected, a sufficient population should be persuaded to settle them, they should "be admitted members of the federal union, having the same rights of sovereignty, freedom and independence as the other states." This condition and guaranty was invariably affixed to their invitations and acts, from 1779 to the period of the adoption of the constitution. And it is not immaterial to observe, that in the ordinance of 1787, (so frequently referred to,) among the articles of compact, made irrevocable without common consent, provision was made for the immediate formation of a certain number of states within the territory ceded in accordance with those invitations; and that it was further, in the same solemn instrument provided, that "whenever any of *said states* shall have sixty thousand free inhabitants therein, *such state shall be* admitted by its delegates, into the Congress of the United States *on an equal footing* with the original states, in all respects whatsoever."

This wise policy tended to quiet the jealousies of the *smaller* states,

against the future disproportionate power of those of larger dimensions. It tended greatly to encourage the settlement, and accelerate the sale of the public lands, by holding out to purchasers, the guaranty of republican institutions, and early independency; it prospectively established and extended those principles of freedom and justice, for which all had contended; and it tended to enable the general government to make the fund so acquired, available, at an early period, for the purpose of discharging the public debt. If *properly* construed, it removed also the hazard, so much dreaded by wise and able patriots, of continuing in the hands of that general government, in *perpetuity*, a fund, which, if so retained, might render that government too *dangerously independent* of the states, and of the people!

These considerations were not void of influence, and Massachusetts, New York, Connecticut and Virginia, which, each, according to its *asserted* charter limits, claimed to be proprietor of the whole, or parts, of the old north-western territory, respectively made their deeds of cession, *limited and restricted*, according to the stipulations and conditions contained in the resolves and acts of Congress, alluded to. And thus, by the making and acceptance of these deeds of cession, the principle, which recognized in the states, the right respectively to appropriate the public domain, *not so ceded*, was but the more firmly established.

But it is said that the states, members of this Union, are no longer in all respects "sovereign and independent." This is undoubtedly true—many important prerogatives of sovereignty were granted, and most happily, to the national government. But was *this* one among the delegated powers? The "original states," are daily furnishing evidence, by their land patents, continually issued, and by their constant legislative action, that *they* do not so understand the constitution. Now, if any *one* of those states may have rightly exercised, and may still exercise, those powers of sovereignty, then it may be assumed that *all* may; for it is impossible, I think, to suppose, that the constitution of the United States could have sanctioned any plan of an *unequal* distribution among the several states, of supreme power. Such anomaly would inevitably have tended to its own destruction. And the history of its adoption, as well as the intrinsic evidence the constitution itself contains, manifestly shows the jealousy and caution with which a just and well balanced equality in this respect, was sought to be secured—that *each* state was intended to rest upon "the same footing," in regard to its sovereign powers, with *every other* member of the Union; and that whatsoever political capacity one state might possess every other state, within its own limits and scope of action should likewise possess, seems to me manifest, from the whole context and spirit of that instrument.

The whole matter, so far, may be summarily presented, then, in this

shape:—prior to the revolution, the unpatented lands were claimed by, and admitted to appertain to, the government of Great Britain. Why? Because all sovereign political powers, within the whole extent of its North American provinces, were concentrated in that government. When that political relation ceased, and independence was asserted, the property of the “crown lands” followed the transfer of sovereignty, and vested in those now independent states, in which they were situated; and it did so, for the reason, that *they* severally, had become free, sovereign and independent. While so possessed, and possessed of immense tracts of those wild lands, some listened to the solicitations of their sister states, and were pleased, for the purposes mentioned, and *under* the stipulations prescribed, to execute deeds of cession, for *parts* of this public domain, to the confederation. The confederation kept its faith; the ordinance of 1787, preceded by many other acts indicating similar intentions, was passed; *new states* were “laid out and formed,” within the ceded country; colonial governments were provided for them, and assurances were in the most solemn form of *compacts irrevocable*, renewed, that whenever any one of *such* new states should have acquired the requisite population, such new state should, forthwith, be admitted into the “federal Union,” with *all* the “same rights of sovereignty, freedom and independence, and upon the *same footing* with the other members of the confederacy, in *all respects whatsoever*.” Intent upon the object of rendering this great fund available, for the purposes for which it was professedly procured, contracts were early entered into, with the Scioto company, the Ohio company, and John C. Symmes and his associates, for the sale of many millions of acres; immense tracts were designated for the satisfaction of the claims of the officers and soldiers of the revolution; and, without descending to the character of a great land speculator, (selling his acres by retail), whole townships were offered in New York, Philadelphia, Pittsburg and elsewhere, at public auction. Thus every indication was exhibited, of a wish to accelerate the admission into the Union, of the new states “laid out;” and while it was yet time; while sovereign *power* for *all* purposes, was still exercised over these new colonies by the general government; that government evinced a constant desire to effect sales of this domain *rapidly*. Indeed, the conviction would seem to have been deeply rooted, that, as it passed from the crown of Great Britain, with other, the prerogatives of sovereignty, so, the proprietary interest in these “unpatented lands,” however acquired, would pass to the new states, within whose borders they were, when *they* should be admitted into the Union, upon the same footing with the original states, congress, therefore, withheld no encouragement; they intermitted no effort, to convert this vast property, by public and by private sales, and in the shortest practicable time, into

available means with which to pay the debt of the revolution! This was certainly the course of justice and of prudence. Of justice, because it was admitted, nay, more, it was *felt* by all, that the debt of the revolution must be paid! Of prudence, because the people and the states could never have consented to have placed so vast, so increasing a fund, to be kept for a long and indefinite period, in perpetuity, perhaps, in the control of a government, which *might* separate itself, and its interests, from the states, and the people, and become independent of both! and because there were then, among our soundest statesmen, and purest patriots, those who thought that there was no legitimate authority, no constitutional capacity, in the general government, to become grantees or proprietors, in any shape, of this vast domain. "And yet all this has been done," says Mr. Madison, speaking of these cessions, and of the disposition proposed to be made of them by the old Congress (Federalist No. 38,) "and done without the least color of constitutional authority. A great and independent fund of revenue, is passing into the hands of a single body of men, (the Old Congress,) who can raise troops to an indefinite number, and appropriate money to their support, for an indefinite period of time."

But whatever may have been thought formerly, or now, as to the constitutional incapacity of the United States, either under the old confederation or under the existing constitution, to receive or to hold the public domain while yet it was a wilderness, it is nevertheless purchased, cultivated and settled by those who had a *right* to look for a redemption of the pledge *holden out to them* by the vendors; who had a *right* to expect, and who *did* expect, that the country they came to inhabit, would become *free*, sovereign and independent; who were assured that, in the fullness of time, their adopted country would be admitted a member of the Union, on the same footing, in all respects whatsoever, as the "original states." *Nominally*, Michigan is so admitted; *ostensibly*, she is so *declared* by law. But is such substantially and in truth, the footing on which *we* stand? What was the condition of that beautiful and magnificent country which extends from Utica westward to the shores of Lake Erie, at the termination of the revolutionary war? It was one wide spread waste! It was "unseated," "unpatented" "crown land." And what has more certainly or more eminently tended to increase the vast wealth, and power, and dignity of the "Empire State," than her admitted proprietary interest in that splendid garden? Is Michigan admitted into the Union "on the same footing in all respects whatsoever?" What enabled rich and powerful Pennsylvania to sustain all the expenses of her state government, during the whole period of her existence as an independent commonwealth, down to the time of the commencement of her present system of internal improvement, without

the necessity of a state land tax? What, but the immense resources which she has drawn from her "unpatented wild lands?" Is Michigan admitted a member of this Union "on the *same footing in all respects whatsoever*"? Whence, but from her "Western reserve," came the ample funds of provident Connecticut? To whom, both before and after the adoption of the national constitution, belonged those uncultivated acres, which lead off, with almost boundless expanse, towards the confines of the province of New Brunswick; and for an intrusion into which, by a foreign power, this nation is, even now, threatened with the miseries of a national war? But if wars overtake *us*, and the pressure of public calamity be upon *us*, may *we* also look to the "unseated" and "unpatented" acres, that so break the continuity of our settlements—that are in the midst of and all about us? Yet the guaranty under which our citizens have purchased, and domiciliated themselves here, was, that Michigan should be admitted into the Union "on an equal footing with the original states, *in all respects whatsoever*."

Of all the rights that appertain to a "sovereign and independent state," I know of none more indisputable than that of uncovering the natural wealth of the country, of facilitating its intercourse, of increasing its commerce, and of encouraging its agriculture by the construction and establishment of roads, canals and railways; nor do I know of any such right that draws after it a correlative duty more important. To that end, *all* the resources of every sovereign power *must* be holden subservient; to that end, every species of property, and every subject of the government should be made to contribute in just proportion. This wise, just and proper purpose, Michigan, has sought to accomplish. How has the effort resulted? In the exhaustion, alas, of our means—in the prostration of our hopes—in the humiliating failure of the undertaking! And why this failure? Because more than three-fourths of the real estate of the country is claimed to be beyond the reach of taxation! These natural and proper resources of the country are locked up. More than three-fourths of that property, directly to be benefitted by the operation, is holden to be beyond the control of a fair, proportionate and compulsive contribution! And the most useful and legitimate of all the powers of government, are thus chained up, and a general paralysis overspreads the land! Is this just? In the often repeated resolves and acts of the old Congress—in the deeds of cession quoted by our brethren of Vermont—in the solemn and irrevocable articles of compact entered into with us, and for our use, and contained in the ordinance of 1787, it is declared, in every variety of positive terms, that "the states so formed shall be distinct republican states, and shall be admitted members of the federal Union, having the same rights of sovereignty, freedom and independence, as the other states." And are

these high attributes in our case, to be illustrated thus? Why, we may almost as fitly seek for their illustration in the annals of the fabled Barataria of Cervantes!

But we are admonished, gentlemen, by the Vermont resolutions, that the "deeds of cession" contain another clause of far different import. "The lands ceded," our friends assert, "must be considered," (for that the deeds of cession so provided,) "as a common fund for the use and benefit of all the United States, members of the federal alliance, and shall be faithfully and bona fide *disposed* of for that purpose, and for no other use or purpose whatsoever."

It may be admitted, I believe, that such is, indeed, the general scope of a provision, either expressly inserted, or by reference, essentially adopted, in perhaps all the deeds of cession. And it would be neither wise nor honorable to disguise its just meaning, if it were in our power to do so, nor diminish its *fair* and proper weight! And if, upon a full consideration of the matter, it should really be found that our fancied sovereignty is a delusion, and our independence a mockery, still, in such an exigency, we must take counsel of honor only, of justice and of patriotism.

But to determine the true meaning of the provision, and the proper influence which should be given to it, I hold it to be most certain that we must look at the whole instrument, we must look at the bearing of *all* its provisions, and at the bearing of these resolves and acts of Congress, in reference to which the cessions were made, and the articles of compact, (to which we have become parties,) and which were based in part upon them. In such a system, so important in its consequences, and so noble in its design, as that which looked forward to the formation and establishment of the vast political communities of the west, nothing is unimportant, and every part of the plan should be made to harmonize, (by restraining or enlarging the sense of the terms defining it,) with its general and elevated purposes. Such a rule of construction is applicable to all legal instruments; I know of none more useful where there is any ambiguity, or seeming confliction in its terms, nor any more manifestly sanctioned by reason, and I cannot bear testimony in favor of the ingeniousness of those of our Atlantic brethren, who, discarding that most sound rule of construction, would limit their views to a single provision, involving certain pecuniary interests, and in seeking to enforce it *literally*, as if it were in no wise subordinate and subservient to a general plan. Thus destroying the well balanced, theoretic and practical equality of the states; disabling the new and weaker ones, from performing the most important of all the functions of government; excluding from them their natural and proper resources, and absolutely degrading the character of their political existence!

Magnanimous Virginia—if her claim to the whole of the old north-western territory had been indisputable, would never have consented to cede her right, for the purpose of rearing or sheltering a people less free, or less worthy of independence than her own children!

The American colonists had *all* felt too bitterly the consequences of that colonial dependency, which depressed their enterprise, manacled their energies, and left them no *effective control of the natural resources of their country*; to indulge for a moment the thought of extending and perpetuating the miseries of a similar system, over the broad valleys of the great west. And who, with such destiny in view, would have braved the tomahawk and scalping knife, and all the horrors of an Indian warfare? Who would have become purchasers of the useless domain, if it were not to secure for themselves and their children, habitations among the free?

The men who constituted the Congress of the confederation, and who invited these sessions, who receive them, and who enacted the ordinance of 1787, were men of unsullied patriotism, of expanded benevolence, and of far-reaching thought. In the preamble of the irrepealable articles of compact, which are embodied in that ordinance, they thus announce the leading principles and object of the “deeds of cession and of the whole system, and for extending the fundamental principles of civil and religious liberty, which forms the basis, wherever these republics, their laws and constitutions are erected, to *fix and establish* those principles as the basis of all laws, constitutions and governments, which forever hereafter shall be formed in the said territory; to provide, also, for the establishment of states, and permanent government therein, and for their admission to a share in the federal councils *on an equal footing* with the original states, at as early a period as may be consistent with the general interest.” “It is hereby ordained,” &c.

Now, any construction of the clause quoted in the Vermont resolutions, that would prevent the development of the proper resources of our state; any construction which would withhold from all control of the local government, large tracts of wilderness, breaking the continuity of our settlements, thus retarding, or at the pleasure or caprice of another power, utterly and forever preventing the advance of the agriculture and commerce of the state, any construction which would withhold from taxation and from all fair contribution, and for the most vitally important purposes of constructing roads, canals and railways over the state, three-fourths of the real estate within its limits, must be a construction utterly inconsistent, not only with the best interests of our citizens, and with the great purposes of all government, but equally opposed to the spirit of “the deeds of cession,” to the purposes avowed by the Congress of the confederation, to the rights of the state to regulate

its own domestic policy according to its own pleasure, and repugnant to every attribute of that "freedom, sovereignty and independence," which are guaranteed to us, as well by the "deeds of cession," as by all the resolves, acts and ordinances of the continental Congress on that subject. According to technical rules, deeds are to be construed most strongly against the grantor, and when third persons have acquired a valuable interest in the subject, especially if the deed or contract were made with a view to such acquisition, (as in the case of the purchasing inhabitants of the ceded public domain,) then is the writing to be construed most favorably for such interest; and it is a very ancient rule, that when there exists a saving, reservation or qualification in any writing, utterly inconsistent with the main purpose of the contract, effect is given to such main purpose, and the saving or reservation is deemed null, by reason of the repugnancy.

But without the aid of technical rules, reason and common sense would exclude all *such* constructions of any one clause or provision, in any general scheme, as would practically tend to defeat its leading and paramount purposes, and would require that the sense of a particular clause be so far restrained or enlarged, as that the whole may be made to harmonize and the general interest enforced. Now, no one, I think, can finish an examination of the resolves and acts of the old Congress, (especially those of September and October, 1780, of April, 1784, and the ordinance of 1787,) together with the different "deeds of cession," without feeling convinced that it never consisted with the intentions of the parties to those "deeds of cession," that the general government should remain the perpetual proprietors of the ceded domain; nor could it ever have accorded with the wishes of the American people, that such should be the result. There was nothing so fascinating in the policy of the ancient kings of Egypt, (and its present ruler had not then restored that policy,) as that the American people should have desired its adoption. Some period, then, was unquestionably anticipated when Congress should become dispossessed of this great landed property. One of the principle objects sought to be obtained by the action of the United States in this matter, was the erection of a number of distinct republics, and the extension and perpetuation, over this wide-spread country, of those fundamental principles of civil and religious liberty upon which their own governments were based. Could this be effected over a land either uninhabited or inhabited only by serfs, lessees or trespassers?

Another motive which stimulated the action of the confederation, was the existing jealousy which prevailed on the part of the small states, against the growing power of the larger ones. The retention by the general government of the immense domain, could but have changed the

object, while it increased the force of this well founded jealousy. A third motive which influenced the proceeding, undoubtedly, was, the earnest desire of the United States to meet the expenses of the war. They manifestly hoped to convert the ceded public lands into available means to effect that purpose. This was certainly a very operative inducement. How could effect be given to it, but by large and *immediate* sales?

Thus all the avowed motives which induced the old Congress to solicit these grants from the states, imply the absolute exclusion of all intention to retain them.

And in almost equally direct terms, the "deeds of cession," themselves, precluded all such purpose, under defined conditions and restrictions, (of which the most prominent have been already so often alluded to,) the lands so ceded were by the very acts and "deeds of cession," *required to be disposed of, &c.*

The United States cannot rightfully hold these lands forever, for it would defeat all the great objects of the cession. They *must* be disposed of, for such are the terms of the grant, and the grantees *must* take *per formam doni*.

Within what time then should they be so disposed of? within the life of one generation, or should it be within a *reasonable* time? and what is that reasonable time? The rule of construction I have adverted to, (of so construing *each* part and clause of the entire arrangement, as that the whole will stand together,) will furnish the answer. Neither of the new states can claim, of right, to be admitted into the Union, until it shall have acquired the specified population. Until admitted, it possesses no inherent sovereignty; until then the sovereign power rests in Congress, not only to regulate the internal policy of the state, but also to dispose of and make all necessary regulations respecting the public domain. But when the "new state" is admitted, (and it is Congress alone that can admit it,) that sovereign power passes from the general to the local government, and with it as its inseparable incident, the right to appropriate the waste and unpatented land, if any such remain.

The congressional act of admission operates *per se*, as an effectual disposal of the public unappropriated wild lands. This construction reconciles the seeming inconsistency of the provisions heretofore alluded to. It leaves, with the general government, an ample and reasonable time within which to dispose of the public lands. A failure to make such a disposition, on the part of Congress, cannot in justice, be deemed to furnish a reason for withholding from such admitted new states, any of its rightful sovereign powers; for, while it remains in its minority, it can exercise no control in the matter.

This construction maintains that just balance of the constitution, which results from an equal distribution of powers among all the states, members of the Union; and while it does injustice to none of the original states, it leaves with the young and weaker ones, those rights and faculties, the exercise of which is necessary in ordinary times, for their well being and the advancement of their best interests; and in times of war or great public calamity, essential to their existence. And finally, this construction enforces and gives effect to all the great objects and beneficent purposes which induced the cession.

Against this construction, however consistent it may be with the terms of the several "deeds of cession," I am aware that another objection may be urged—nor has that objection escaped the observation of our brethren on the Atlantic border. In one of the articles of compact contained in the ordinance of Congress, of 1787, a clause is found, purporting that "the legislatures of those districts, or *new states*, shall never interfere with the primary disposal of the soil, by the United States, in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers," &c.

It ought to be conceded, that in any attempt to ascertain and adjust the respective rights and relative condition of the states, and of all the parties in interest, in the subject matter of these "deeds of cession," all contemporaneous or prior acts of Congress, relative to the same subject, and especially the ordinance of 1787 are to be taken into view; yet I indulge the belief, that the objection which this clause interposes to the construction contended for, upon further consideration, will not be found insurmountable.

Nothing is more certainly essential, in every attempt to arrive at a true construction of a law, or of any proposition, than an accurate comprehension of the *meaning of terms*. And considering the changes to which all living languages are subject, it may be as necessary, under circumstances, to look at the *time* when an emphatic term is used, in order to ascertain the true sense in which it is to be taken, as at the subject matter treated of. The term "states," or "new states," when found in the constitution of the United States, or in acts of Congress, passed subsequent to the adoption of that instrument, implies a political community, which, with the exception of certain enumerated limitations, and specifically delegated powers, is in the most extended political sense, *free, sovereign and independent*; a community, too, which is, of itself, an admitted, constituent part and member of the Union. Such is the technical meaning given to the term by the constitution, and in that strict and constitutional sense, it *must be taken*, in all laws and acts of government, passed since the adoption of that constitution. But the

same term, when used *before* the adoption of that constitution, and by all writers on public law, implies no such powers, limitations nor faculties, but in a very undefined extent, implies merely "a political community." The District of Columbia, "according to the definitions of writers on general law," was admitted, by the supreme court of the United States, to be "a State;" but the same high authority determined, that in view of the *technical* meaning given to the term by the constitution, that district was not a "state," and could not be comprehended by that term, when used in acts of Congress passed since its adoption. (2 Era, 452.)

Now, the "deeds of cession," the resolves and acts of the old Congress, which led to them, and the ordinance of 1787, in all of which the term is used, were *all passed long before the adoption* of the constitution; thus rendering it impossible that the term "new states," contained in the clause of inhibition referred to, should have been used in that constitutional sense, which was not imparted to it, until nearly *two* years after the passing of the ordinance. The matter being thus far disembarassed of difficulty, it remains to inquire if the term were used, in *any* sense, which would preclude the construction contended for in behalf of the "new states?" It is believed not. Both the "deeds of cession," and the ordinance, plainly intend that the new states should be created, long before their admission into the Union, would be competent or desirable. It is provided in the fifth of the permanent articles, "that there shall be formed," &c., "not less than three nor more than five states," &c.; and "whenever any of the said states shall have sixty thousand inhabitants therein, such state shall be admitted," &c. Their existence as "states," is thus supposed during the whole period, from the time the settlement of the country commences, to the time, however remote, when they shall have attained the requisite population.

But if doubt should still remain on this point, a reference to the language used in the act of the 23rd April, 1784, it is believed will fully remove such doubt. The term "state" is there directly applied to the communities in every grade of their political existence, prior to their admission, so that there can remain no fair ground to presume that the term "new states," was used in any *exclusive* signification, or with special reference to such states, after *they should have been admitted* into the Union. But, on the contrary, no room for doubt can remain, but that it was used in its most general and indefinite sense, and that consequently, a fit occasion is presented for the application of that rule of construction by which the import of a general term or clause is to be restrained or extended upon reference to every other clause, and to the whole context; and the restriction of the inhibition to the states as they existed, under the ordinance, and prior to their

admission as members of the Union under the constitution, seems strongly enforced by the consideration, that the constitution is paramount in authority to the ordinance; that the ordinance can, in fact, impart no actual power to the states, but that it is *alone* to the *constitution* that we must look, in order to ascertain the powers and the restrictions upon the powers of the state, members of the Union.

There is another feature in the character of this matter, which our eastern brethren seem to have overlooked; such of them at least, as would claim rights here, founded upon the "deeds of cession." It is this; that no part of Michigan ever constituted a part of any one of the *ceding states*. That Michigan, and every part of Michigan, ever was, since its first discovery by Europeans, and always continued to be a part of Canada, both before and after the peace of 1763, is a proposition which needs no evidence to support it *here*. The monuments of its former proprietors and possessors crowd too thickly about us, and all about us, to leave *such* a matter in doubt; nor is it at all necessary, for our better satisfaction in that particular, that we should go back to the diplomatic bureaus, or the inter-national negotiations of either France or England, to ascertain that fact. True it is, that the very ancient charters of Massachusetts and Virginia, New York and Connecticut, may have purported to comprehend parts of that which is now Michigan. And it would perhaps be more difficult to determine which of these ancient conveyances *do not*, rather than which of them in terms *do*, include the whole country. They all, I believe, continue westwardly until they severally terminate in the Pacific ocean! And why, the modesty of the monarchs of England should have restrained them from going further, may present a grave question for antiquaries to decide! But I have never learned that Virginia has made claim, on that ground, to California, or any part of Mexico; or that Connecticut or Massachusetts ever exercised Jurisdictional powers at Astoria! Though the claim of France to the valley of the Ohio, as a part of Canada, or an appendage to it was disputed; yet I have never learned that her claim to Detroit, Chicago, Michilimackinac or the Sault de Ste. Marie, was ever contested by Great Britain or her provinces, until the whole of Canada was taken from her during the last war which terminated by the treaty of 1763. But it seems of little moment to dwell longer upon this particular branch of the subject here. The "crown lands" of Michigan, as well as the "crown lands" of Georgia and of Maine, had been won by the courage and the perseverance, the blood and the treasure, the sacrifices and the negotiations of our common ancestors; the great and the good men of the revolution! As this vast domain, scattered as it was, over most of the states, was obtained by the joint effort of all, so it was insisted by Maryland and

Rhode Island, Delaware and New Jersey, that they should be holden for the joint benefit of all. *But the doctrine did not prevail.* All the other "original states" opposed it; and each resting upon its own basis of "sovereignty and independence," asserted and *maintained* its own exclusive right to that which was within its own proper borders.

But gratitude, honor and every good motive, required that the debt of the revolution should be paid. The ceding states contributed of their abundance. The "deeds of cession" were given; and the old north-western territory, instead of becoming the future theatre on which to contest the indefinite and conflicting titles of powerful states, was destined to add to the constellation of independent, sovereign and happy republics! But when will that destiny be fully accomplished? When will the states, peopled and built up under the guaranties of the ordinance of 1787, be let into the full exercise of all that "sovereignty and independence" which distinguished the proud eminence of the "original states?" The debt of the revolution is now fully cancelled. Its officers and soldiers, always objects of veneration and love of the whole American people, have also been otherwise remembered in the distribution of the public domain. And now, why are the same rights and sovereign powers that were recognized as existing in the older members of the union, withheld from those states which have become established within the old north-western territory, and have been received into the American family? Michigan is *nominally* admitted a co-equal member of the union. As it becomes her to do, she seeks to advance the commerce and the agriculture of her people; and by the construction of roads, canals and railways, to disclose the capabilities of her fertile soil—to develope and bring into active usefulness, the latent wealth of her country. But, it is in vain! an *interdict is upon her!* Her resources are under the seal of the nation! and now, that *new* interests have grown up, and the balance altered, the repudiated reasoning, and the repudiated projects of sixty years ago, are revived. An agrarian distribution of the "waste—unpatented" "crown lands," is again the subject of discussion! And should the dignity of state pride continue more and more to fade, before the brighter and broader effulgence of national power? And should the theories of other years be overturned, and (*principles* changing with the times,) should a distribution of the public lands, or their proceeds be now enforced in favor of all the states, it will be at least incumbent upon the new states to insist that the system be made co-extensive with the reasons upon which it purports to be based, and the justice, then, of comprising in the fund to be divided, all that were "unseated crown lands" at the close of the revolution, wheresoever they may be situated, will not be lost sight of. Many millions of these acres, in the southern,

in the central, and in the northern states, have been disposed of and sold by the states within whose borders they were, and their proceeds made to swell the coffers of those states. Many millions still remain unsold. If the principle of distribution be enforced, shall it not be made applicable to *all*, for which *all* alike contend? *Who* were they, by whose efforts they were obtained? Were they not our fathers, too, as well as the fathers of those who never ventured in the great west? And shall we be disinherited because, by the encouragement of our parents, we left the homes of our infancy? Because we wandered from the confines of our native state? The sense of justice—the generous feeling of the American people, could not enforce so invidious a distinction. If our brothers of the Atlantic states have received an “advance-ment,” will it not be brought into the account? If the “original states” have grown rich and powerful by the aid of the “crown lands” within their borders, will not the whole be thrown into a common fund before they enter (for a distributive share of the whole paternal estate.) into the confines of those “new states,” which they promised to place on “the same footing” with themselves?

To whatsoever decision may be made of these momentous questions, *we* shall owe the most respectful deference; and with whatsoever severity, it may bear upon us, if that decision should be sustained by public opinion, by the general sense of the nation, it would be as unwise as it would be hopeless, to contend against it; but happily for *us*, the question is still unsettled before the American people. There are, probably, no governments upon earth, more subject to the influences of public opinion, than ours are. Public opinion forms indeed, the basis upon which all our institutions rest; it is their cement, too, and their only strength. To that public opinion, *we* may still appeal, and the effectual mode to insure its success, is by our own candor, to dislodge from the public mind those prejudices, which local feeling and local interests so commonly produce. During some years past, this subject has occasionally engaged the attention of the legislatures of most, perhaps of all, of the “original states.” Views suited to advance exclusively *their* interests, have, from time to time been presented; and in the popular addresses and newspaper publications of the Atlantic states, the selfish and sordid feelings of our nature are too frequently invoked against us; while on the other hand, *no full exposition* of the claims of the new states, and of the principles upon which they must rest, seems to have been attempted by the legislatures of our sister states of the west. It is not favorable to justice that the public mind should be thus pre-occupied by partial views, and expositions so strongly tinged by local feelings. It is from such considerations, that I have not been willing to lay before you the resolution of Vermont without com-

ment, nor without presenting to you some general views of the whole subject, and some expositions which may tend to advance *our own* peculiar interests.

Those I here present, may perhaps be obnoxious to the criticism I have ventured to apply to others, that, viz: of being tinged by local interests. But considering the grounds that have been taken elsewhere, an *attempt* to exhibit the character of our claims in a more favorable aspect than that in which they have been viewed by our fellow citizens of the "original states," will not, I hope, be considered as deserving of censure.

There are some topics connected with the subject, to which I have not here adverted; but which, in any general view of it, are essential to be considered. The acquisition of Louisiana is *not*, perhaps, of this description. The reiterated assertion, that the purchase of that great country cost the nation some ten or twelve millions of dollars; and that the states collectively ought not to incur the loss of so large a sum, for the peculiar benefit of the four or five new states which may ultimately have been created there, affords, I think, no just argument against the more ancient expectations of the people of Michigan. The learned and able *statesman*, under whose auspices that purchase was negotiated, is well known to have entertained the opinion—in common with many others—that the sanction of an amendment to the constitution of the United States, was necessary, in order to warrant the procedure. And if the nation were so far indiscreet, as not to make appropriate provision for its own security in all respects, I cannot perceive any just influence such omission can have upon anterior rights. But the particular topics to which I now allude, are some that have already been made the subject of attention at a former session; and are, perhaps, sufficiently spread out upon the archives of the legislature. Among the Senate documents of 1838, will be found a report of the committee on state affairs, (No. 32,) "relative to the application of this state for donations of lands for internal improvement," &c. The principal subject of this communication is there incidentally brought into discussion. The sentiments contained in that report, received, I believe, the unanimous assent of the body to which it was made; and the resolutions appended to it passed both houses. The leading propositions contained in *this* communication, are to be found, with others, in a more condensed form there. Without attempting any further recapitulation of the matter contained in that report, I venture to solicit your renewed attention to the views there presented; with the further recommendation that the same matters be again and earnestly pressed upon the attention of Congress by you, with such qualifications and additional views as your best judgment may approve.

Although I have much confidence in the soundness of the reflections I have now submitted to you, concerning those theoretic principles of our governments; which are involved in the consideration of the title to the public domain, and concerning the construction I would put upon the ordinance of 1787; and although I have much reason to feel assured, likewise, that at the period of the admission of Ohio, as a member of the Union, many of our most able statesmen entertained the opinion, that upon the admission of that state, the unpatented public domain within its limits, would *unavoidably* pass from the control of Congress, to such newly admitted state; yet, gentlemen, I am not prepared to recommend that you should now take measures, founded upon such opinions, (although you should fully concur in them,) with a view to *enforce* the claim they indicate. We know that great and good men have entertained a different belief. We know that a contrary hypothesis has practically obtained for many years. These considerations should lead us to look with some distrust upon any process of reasoning which should lead us to any conclusion, opposed by *such* authorities!

We know that the public mind in the "original states," is not prepared to witness with complacency, the bold assertion now, of such a claim; and after all, the "original states" are our states; it is "father land," and the home of our fathers! and vain and false is that philosophy which would admit, that time or distance, or any but the most powerful cause, can sever that cord which fastens our affections to the land that gave us birth! Nothing can separate the affections of the new states from the old, but a deep sense of injustice; continued, persevering injustice! Michigan *has* suffered wrong; wrong has been done her on her *southern* border, and on her northern; while in all her counties her enterprise is cramped, her energies are paralyzed and her resources are locked up in the public domain! But she is not yet driven to the wall! She loves the *Union*, and will adhere to it; she knows the intelligence of its people, and has everything to hope from its justice; she respects the firmness of Congress, and trusts that no such disposition of the public lands will be sanctioned by that body, as may prejudice the just rights of Michigan. Her people have admired the elevated policy and disinterested patriotism, which have so often distinguished the councils of the American Congress; and, therefore, cannot believe that *they* who were *promised* that their state should be placed "on the same footing with the original states in all respects whatsoever," can much longer be made to continue the victims of a system, which practically renders useless, all the natural resources of their country; which prevents the advance of its agriculture and its commerce; which not only inhibits her from reclaiming and appropriating to any of the useful purposes of society, the waste and "unseated lands throughout her limits," but from taxing them for any

purpose; and which fatally closes the door against *all progress* in her system of internal improvement! To remove evils such as these, is of the most vital importance to us; and I most certainly entertain a very sanguine belief, that a presentation by you to Congress, of these grievances, would be attended by the most favorable consequences.

WILLIAM WOODBRIDGE.

March 10, 1840

From *Journal of the Senate*, pp. 419-422

To the Senate:

Gentlemen:—I respectfully return without my signature, to the house, in which it originated, the bill entitled “An act containing certain provisions concerning the city of Detroit.”

Several of its provisions, appear to me to be obnoxious to very serious objections. I am well aware, that in a commercial city like Detroit—upon the national frontier—so easily approached from all quarters and so easily escaped from—and a thoroughfare to which all descriptions of itinerent persons may be tempted to resort—it is very proper that its police should be efficient, prompt and perhaps severe. But from a salutary promptitude, efficiency and severity in its police, there is but a single step, (and the transition is easy, and theoretically scarcely perceptible,) to that which is arbitrary and dangerous to the rights and liberties of the citizen! The second section of the bill provides, that when any defendant is found guilty of the complaint filed against him, said mayor’s court may punish him by fine and costs, and by imprisonment not exceeding three months, or either, at discretion. In addition to the other very extensive powers of the common council, the fourteenth section provides that that body shall have full power to pass all ordinances, &c., relating to breaches of the peace, &c., and declares that a certain ordinance entitled “an ordinance to punish breaches of the peace and disorderly persons,” is valid, and shall continue in full force until amended or altered by the common council.

But the constitution has provided, that “the legislative power, shall be vested in a Senate and House of Representatives,” and that “no person shall be held to answer for a criminal offence, unless on the presentment or indictment of a grand jury,” (except in cases not falling within the scope of this bill.) Whether, on general principles, the law-making power can be delegated by a legislature, deriving its own authority under a written constitution, it is not perhaps, necessary now to discuss. In Michigan, at least, it can be exercised only by “a Senate and House of Representatives.” It may not be easy always to dis-

tinguish between a general act of legislation and a mere regulation of the internal police of an incorporated city. But when the matter in question is one recognized in most countries, as a fit subject for general legislation, and in our own statute book is considered a crime, a statutory offence against the general law, it is certainly deserving of very grave consideration, whether it be competent for the legislature to transfer to the common council of Detroit, the power to vary at its pleasure, the existing law, and without any other limits than its own discretion, to define new punishments.

But waiving this branch of the subject, it seems to me very clear, that the provisions contained in the second section of the bill, taken in view of the general jurisdiction which it purports to vest in the mayor's court, are in direct conflict with the eleventh section of the first article of our constitution. The intervention of a grand jury in prosecutions for alleged crime, has long been deemed one of the most vitally important of all protecting shields that can be thrown around innocence—the most useful of all bulwarks that can be contrived against oppression!

Whether it were most wise to apply this great preservative of our civil liberties, to prosecutions for all offences, as is done by our constitution; or, whether it would have been more expedient to have limited it, as in the constitution of the United States, of New York, and of perhaps most of the states, to the mere aggravated classes of crimes in question, with which I can have nothing to do. The existing constitution, until it should be amended, must furnish the only guide. Unless, then, the mayor's court be furnished with a grand jury, as well as a petit jury, I cannot think that court can, consistently with the constitution, punish a person for a breach of the peace, or for any offence against the general law, by fine and imprisonment at its discretion, as is proposed in the bill. Mere police regulations may be enforced by appropriate methods; but the punishment for an act recognized by the general law as a crime, cannot, I apprehend, be so inflicted, legally.

There are some other provisions in the bill which I think very objectionable.

The third section provides for the "laying out" and opening of new streets, alleys, &c., and for the assessment of the damages individuals may sustain thereby. It provides also, for the assessment, at the same time, of the value which the assessors may believe will be imparted to any property, over, through, or adjacent to which, such new street or other improvement may be constructed, by such construction. It further provides that if the value which, in the opinion of the assessors, (or jury) would be imparted to the land, &c., should exceed the estimated amount of damages on the same property, then that the excess

should be a lien on such lands, &c., and that a process may be sued out, by which, as well as the specific property, (supposed to be benefitted) as also the other property of the proprietor or possessor, real and personal, may be very summarily levied on and sold, and the proprietor or possessor ultimately be, by the force of the city, evicted from the property, and, as the case may be, with his family, expelled from his dwelling. But the bill nowhere provides that such suffering party shall be notified of the time when the jury of assessors may act in the matter; and although it saves the writ of certiorari, yet the bill utterly prohibits all stay of proceedings—and however unjust, irregular or erroneous they may be, it expressly forbids the granting of any injunction, supercedeas, or other process or order by any judge or court, to arrest such procedure.

Such provisions I consider against the fundamental principles of natural justice, unnecessarily arbitrary, and contrary to the constitutional rights of the citizens.

For such reasons I feel it to be my duty, however useful, convenient and proper other provisions of the bill may be, to withhold my signature from it; and with these causes of objection, to return the bill, as by the constitution, it is made my duty to do, for the further action of the Legislature.

WILLIAM WOODBRIDGE.

March 13, 1840

From *Journal of the Senate*, pp. 444-445

To the Senate and House of Representatives:

I have received many communications from business men and respectable individuals in the Atlantic states, and especially from New York, concerning the propriety of the appointment, by the authorities of this state, of commissioners to take the acknowledgment and proof of deeds and instruments under seal, and depositions.

The business connections of the people of this state with individuals residing in the Atlantic cities, and especially in the city of New York; and so many of our fellow citizens abroad have become proprietors, or interested in real estate, situated in Michigan, that I am now much inclined to the opinion that it would promote the public interest and the convenience of our own citizens, if a law were passed authorizing the appointment of such commissioners in other states. Although our existing laws furnish many and perhaps sufficient facilities for the conveyance of real estate here, by deeds executed abroad, and also point out a mode, not, I should think, peculiarly inconvenient, for the taking of testimony

in respect to the subject matter of suits pending here; yet, so far as I can judge, the usages of men of business, and the probability of increased security for the faithful and correct execution of duties, such as would devolve upon such officers, if their appointment were by express statutory enactment authorized, would seem to render it expedient for this state also, to sanction by express legislation, such a course. Some fourteen or more of the states have, it would seem, adopted this practice. In one of the communications I have received, a copy of a legislative act of one of the states sanctioning the practice, has been transmitted to me. I herewith transmit it to you, and respectfully commend the whole subject to your early attention.

WILLIAM WOODBRIDGE.

March 13, 1840

From *Journal of the Senate*, pp. 445-446

To the Senate and House of Representatives:

I have been advised of the passing of a resolution by the Senate of the United States, directing the Secretary of that body to request the Governors of the different states and territories of the United States, to furnish annually, for the use of the congressional library, all reports and documents in their possession, relative to the geology and mineralogy of their respective states and territories. In accordance with the object of which resolution, I have been requested to transmit a series of the reports of the Geologist of this state, heretofore made.

With a view to ascertain how far it would be practicable to comply with such requests, I have caused an examination to be made among the books and documents in charge of the state librarian, but find no detached sets of the geological reports remaining there. Whatever of them remain in the control of the state, appear bound together for each year, with the other documents and annual reports to the legislature, in the volumes which accompany the journals of the respective houses. Of these annual documents I have not felt myself authorized to transmit any, until, by joint resolution, or otherwise, the legislature should be pleased to express its assent to that course.

I take this occasion also to state, that applications have been made in behalf of very highly respectable literary institutions in the different states of the Union, to be supplied with public state documents, and especially such as relate to the geology and topography of this state. It would be extremely desirable, if it were practicable, and if there were authority, to comply with all such applications, and that not only because ordinary courtesy would seem to demand it, but because also the

general dissemination among our sister states of a knowledge of the geology and topography of our beautiful country, could not but advance in a very great degree, the interests of the state.

WILLIAM WOODBRIDGE.

March 14, 1840

From *Journal of the Senate*, pp. 458-459

To the Senate and House of Representatives:

Next to that course of legislation, the tendency of which may be to foster our love of country, and to preserve and invigorate whatsoever may be pure and praiseworthy in the moral sentiment of the community, I know of nothing more practically useful in free governments than a habit of a vigilant watchfulness over the public finances, and a periodical and scrutinizing investigation, by the legislature, of the public accounts. It was doubtless under a full sense of the importance of this general proposition, that the people of Michigan have caused to be inserted in our fundamental law, the fourth section of the twelfth article of our constitution. That section provides, among other things, that "an accurate statement of the receipts and expenditures shall be attached to, and published with the laws, annually."

Our constituents, gentlemen, have a right to expect that this provision in their constitution should be complied with both literally and in its spirit. Has that expectation ever, hitherto, been properly realized? Until this last year, I cannot perceive that the slightest regard has been paid to it. The journals of the last session will show that this matter was brought to the consideration of the legislature, and that reiterated attempts were made to enforce the spirit and object of that provision—with what success, it is for the selected agents of the people to judge. The voluminous report of the Auditor General was so published. It was substituted in lieu of an accurate exposition of the financial concerns of the state, prepared under the immediate control and direction of the legislature itself. But does such an exhibit satisfy the just meaning and object of that clause of the constitution to which I have alluded? It seems to me that it does not, and that nothing short of a statement prepared with diligence and great care, by a joint committee, or a committee of one of the two houses, and brought by such committee to the direct view and for the entire sanction of both branches of the legislature, would meet this positive requisition of the fundamental law.

Influenced by such considerations, I now respectfully solicit the attention of the Legislature to the matter, and feeling assured that all aid possible to facilitate the attainment of the object, will be furnished by

the fiscal officers of the government, I venture to recommend that the preliminary investigations be commenced at an early day, and that a clear, plain and accurate exposition of the present pecuniary condition of the state (comprising an account of the receipts and disbursements,) be prepared for publication with the laws of the present Legislature, in conformity to the spirit and meaning of that clause in the constitution, to which I have made allusion.

WILLIAM WOODEBRIDGE.

March 20, 1840

From *Journal of the Senate*, pp. 498-500

To the Senate:

I feel constrained to return to the "house in which it originated," the bill entitled "An act for the relief of the administrators of the estate of N. Wells, deceased," without my signature.

One general objection against the bill, which, with great deference, I submit, consists in this: that it purports to legislate for the exclusive benefit of a particular person or case.

Except where the state is a party in interest, this species of legislation is always dangerous.

It carries the legislative power out of its ordinary and legitimate sphere of action; and although it may be sometimes justified on general principles, yet, it ought never, I think, to be exercised, unless sanctioned by an extraordinary combination of circumstances clearly exhibited.

According to the general law of the land, time is given, not less than six months from the appointment of commissioners on insolvent estates, and not more than eighteen months, within which all claims against it are required to be presented and proved. At the expiration of thirty days after the report of the commissioners, a decree of distribution is required to be made by the probate court. Contingent claims and claims on appeal being provided for, the power of the commissioners then cease, and the rights of the respective claimants whose claims have been allowed and appropriated, become certain and vested.

The present bill proposes to dispense with those provisions of the general law which are applicable to every other case; to appoint new commissioners; to require such new commissioners to act upon newly preferred claims, however numerous they may be, and however unreasonably they may have been delayed, and requires that the report of the new commissioners shall be considered as a part of the proceedings of the original commissioners, and authorizes any extension of the time for

the settling of the insolvent estate which may be deemed expedient; to disturb the distribution previously made; to vary the dividend each creditor or claimant may have received or become entitled to receive; to take from them moneys which may have been distributed, or may have been decreed by the concurring judicial decisions of the commissioners and judge of probate; seem the probable, if not the inevitable consequences of the enforcement of such an act.

Without waiting to consider of the constitutional competency of an *ex parte* legislative decision of such a character, it seems to me that its equity is too questionable, and that, as a precedent, it is fraught with too much danger to render its adoption expedient.

But it seems to me that it comes within the scope of the inhibition contained in the third article of our constitution.

It is not always easy to distinguish clearly between an act purely legislative in its nature, and one which partakes more or less of a judicial character. Among the prominent marks of distinction, however, it may be observed that legislation deals in generals; its appropriate purpose is to prescribe a rule of future action, applicable to all alike. The judicial power is always applied to a specific case or person, and is retrospective; it settles and enforces past or present rights, &c., by trial or by sentence, by the instrumentality of triors, and the exercise of the powers of judging.

The bill under consideration, deals exclusively with the vested rights of the parties to a procedure strictly judicial; it overrules and vacates the practical effects of the judicial sentence of a recognized branch of the judicial authorities of the state; determines judicially, to a certain extent, the conflicting claims of the certain persons, who were parties in interest in the cause.

But the article of the constitution quoted, expressly prohibits the legislature from exercising any powers which are judicial in their character, except in cases expressly provided for in the constitution.

For these reasons, I respectfully return the bill, that it may be again submitted to the consideration of the Legislature.

WILLIAM WOODBRIDGE.

March 24, 1840

From *Journal of the Senate*, pp. 520-521

To the Senate and House of Representatives:

Gentlemen—The accompanying document appears to have been transmitted from Frankfort, Kentucky, on the 12th inst., and reached me last evening.

It discloses the same general sentiments which characterize other documents relative to the public domain, to which, in a recent communication, I have alluded, and which have emanated very lately from so many of the “original states.”

Kentucky, however, was not one of the “original states.” Prior to the revolutionary war, no settlements of white persons appear to have been established within its present limits, (Seybert Stat. 4,) although Col. Boon had, a short time before, explored some part of it. It comprehends an area about equal to twenty-six millions of acres; which, for the greater part were, at the conclusion of that war, “unpatented,” or “crown lands.” In December, 1789, the commonwealth of Virginia, which claimed that district as within her limits, passed a legislative act, (1st Virginia Rev. code, 50, 51,) with a view to its erection into a state, and a member of the Union, posterior to November, 1791—if Congress and if the people of the district should assent thereto. It was not until after that period that Kentucky settled rapidly.

In June, 1792, Kentucky became “a free, sovereign and independent state;” and was admitted a member of the Union, “on the same footing,” I believe, “with the original states, in all respects whatsoever;” and from that moment became seized in full property, of all the “unlocated, unpatented crown lands” within her limits.

I will only superadd, that if Michigan were now admitted a co-equal member of this nation, “on the same footing in all respects whatsoever,” with that generous and gallant state, Michigan would have ample means to finish all those military roads which the general government (while yet we were but a colony) laid out, but never finished; to straighten and clear out that channel of the Detroit river which is on the west side of Grosse Isle and Bois Blanc, so that the whole commerce of the lakes would no longer of necessity pass under the very guns of a foreign power. It would have ample means to improve and secure all the natural harbors of her long and incurvated shores; to have united by a ship canal, the navigation of Lake Superior with that of the lakes below; and to have consummated the whole of that splendid system of internal improvement, which our citizens have so near their heart.

She might, also, have retained, from the same fund, resources with

which to meet those times of pressure and distress to which all states are subject.

My early associations, gentlemen; my long continued habits of thought; my worldly interests, are with the new states—with Michigan; and prejudiced though I may be, I cannot but help think that it is our duty to continue to press the claims of our own state upon the impartial justice of this nation, and upon the magnanimity of congress, until we shall be placed and continued, at least upon as good "footing," as the most favored states of the west.

But, were it in our power to do more, more ought not, perhaps, to be done. Against the fatal consequences of a geographical demarkation of political parties, we have long since been most solemnly forewarned; and no further motives than they have can be wanting, to stimulate our fellow citizens of Michigan to do everything; to suffer everything, which honor and duty will allow, to preserve and to defend, in whatsoever degree they may have influence or power, the close association of these states, and the harmonious operations of all the functions of this holy Union.

WILLIAM WOODBRIDGE.

March 30, 1840

From *Journal of the Senate*, pp. 591-594

To the Senate:

With respectful deference to the opinion of the Senate, I herewith return to that body, without my signature, the bill entitled "An act for the relief of certain school districts in the township of Parma, Jackson County."

The bill discloses the fact that certain errors and irregularities existed in the process of erecting and organizing six different school districts within the county of Jackson, in 1837. It purports to authorize an alteration of the record of the organization of those districts; and, such alterations being made, the act then declares that "all the proceedings of the officers of said school districts shall be valid and as legal" as if the record entries in the books of the township clerk had originally been correct.

If any of the township or school district officers alluded to, should have incurred any pecuniary penalties, by any casual or inadvertent errors, and such penalties accrue to the public; and if it enter into the intention of the bill to remit them, though the policy of the acts of indemnity be in general very questionable, yet I should have no doubt of the power of the Legislature to remit them, and I certainly should not, in this instance, question the justice and wisdom of doing so. But if the

bill be found materially to affect the individual and private rights of the citizen, the matter assumes an aspect of more importance.

How far the defects alluded to may be fatal, as regards the organization of the districts, it is not, perhaps, material to inquire. If they be not fatal, then the bill in question is unnecessary; if they be fatal, then the liabilities and the vested rights of persons interested in, or connected with the proceedings which have been had, become changed and most essentially affected by the provisions of the bill, if it should acquire the force of law.

If any of our fellow citizens should have felt themselves aggrieved by the alleged injustice or irregularity of officers acting under a void authority, our fundamental law gives them a right to seek redress in the judicial courts; this bill purports to take that right away. If an unequal, illegal and oppressive course of taxation, should, during the last three years, have been resorted to by the local and neighborhood authorities, (of which I am ignorant,) this bill purports to legalize them in the aggregate; and thus may divest titles, and oust the innocent holder of real estate there, from his farm, perhaps, by sale for taxes, and that without the privilege of correction or any defence.

That there exists in the Legislature an inherent power to coerce a just and equal contribution to defray the expenses of government, both ordinary and extraordinary, I can have no doubt; but that power, in my view, should act prospectively, and not retrospectively; nor when the third persons may have acquired important interests in the results, by covering up aberrations from the salutary requisitions of the law, making that good which was originally void, to the utter discomfiture of such intervening private rights.

Were the provisions of the bill such as could effect only a general *ad valorem* state tax, or even a general county tax, during only a defect in the date or signature, or other circumstance, it would be obnoxious to no so strong objections; because the general law of the land furnishes strong guards against disproportionate, irregular or oppressive taxation. But even there, if it tended, as this bill seems to me to do, to divest property and titles, by confirming and rendering valid, that which may have been originally a trespass, or absolutely null, I see not how the objection could be got over.

In short, though I say it under the influence of feelings of great deference, I cannot eradicate from my mind, the conviction that this species of *ex post facto* legislation, is unjust, dangerous and against the whole spirit of our constitution.

And, though I am painfully conscious that able and good men may differ from me in my opinion as to the character of this species of legislation, yet it is no small consolation to me to reflect, that through the

course of many years, as a citizen; as an advocate in our courts of justice, and as a joint legislator in this capitol, my opinions on this particular subject, have been most frequently announced, and by those of our fellow citizens with whom it has fallen to my lot to act, are well known. But it is far more a matter of just consolation to me to reflect, that in passing this subject once more under its view, this Legislature will be fully and constitutionally competent to correct any errors of mine.

And I also indulge the hope that in the constitutional importance of the principles involved, a sufficient apology will be found for the consumption of so much of its valuable time.

WILLIAM WOODBRIDGE.

March 30, 1840

From *Journal of the Senate*, pp. 606-607

To the Senate and House of Representatives:

I respectfully recommend the passing of an act or joint resolution, requiring the several county clerks and the clerks of all the courts of record of the state, to make annual reports to the office of the Secretary of State, for the use of the legislative and executive departments of the government, showing the condition of the judicial business in the courts of which they may respectively be clerks; showing the number, properly classified, of civil suits commenced at each term; the number of jury trials; the number of judgments rendered, and the aggregate pecuniary amount of such as may be for the recovery of debt, or founded on contract; the number of indictments found; the number of jury trials in criminal cases; the number of days the grand jury and the petit jury respectively, were in attendance, and the number of days in each term, during which the courts were holden, with such other details, as the Governor, for the time being, may at any time require.

The mass of useful statistical information thus periodically obtained, would, I apprehend, be of great use in many respects. But in a new country, rapidly filling up by immigration, when the population is fluctuating and constantly changing; with such change, the judicial business of the country varying also, such information would be of essential service to the Legislature, by enabling them so to arrange the terms of the courts, as to their commencement and duration, as may tend most to the convenience of the judges, the wants of the country and the advancement of public justice.

WILLIAM WOODBRIDGE.

April 1, 1840

From *Journal of the House of Representatives*, p. 725

To the Senate and House of Representatives:

Gentlemen—There has been deposited with me, within the last hour, six bills, some of which are very long and which I have not had time to examine, having when they reached me, before me the important bill concerning justices of the peace, (of some forty pages) and which I have not yet one half read. I conceive, as at present advised, that it is not competent for me to sign any bill and to give to it the effect of a law, after the Legislature shall have adjourned. Under such circumstances, I feel myself compelled to recommend the rescinding of a joint resolution which I have understood had met with the assent of both houses, for an adjournment this day.

WILLIAM WOODBRIDGE.

1841

January 7, 1841

From *Journal of the Senate*, pp. 16-51

Fellow Citizens of the Senate and House of Representatives:

The period has again arrived, when, by our organic law, the representatives of the people of Michigan are required to assemble. The great design of this constitutional requisition is, that after examining into the condition of public affairs, we may, in all things practicable, ameliorate their condition; that we may correct the errors, and supply the deficiencies of former legislation; that we may increase the extension of useful knowledge, and elevate the public morals; that we may advance the principles of justice, foster the great interests of the state, sustain the public faith, and promote the public prosperity. And happy will be our lot, if, when again we separate, we may be permitted to return to our constituents, with a consciousness, that in any material degree, we shall have been the instruments, in the hands of an overruling Providence, in giving effect to purposes of so hallowed a character.

In furtherance of this general design of the constitution, it is made mandatory upon the governor, that he "communicate to you the condition of the state," and "recommend to you, such matters as he shall deem expedient." Who would enter upon the execution of *such* a duty, except with feelings subdued by a consciousness of his own inability to perform it in a manner the most conducive to the public good? But it is our duty and our happiness to remember that our destinies are in the hand of a benevolent and an Almighty Power, who shapes our ends according to his will, and without whose favor, we can realize nothing good—for feeble and short-sighted is the wisdom of man.

In any attempt to review "the condition of the state," the attention of the observer is first, very properly, directed to the consideration of the moral and intellectual character, actual and prospective, of its people. Civil commotions and wars have an end; the evils of misgovernment are temporary in their nature, and may be corrected; the chastisement of heaven, even, through the merciful Providence of God, are, in this world, ordinarily, of short duration. But who can measure the extent, or see the end, or estimate the intensity, of the evils which flow to a people, from ignorance and vice. If any political axiom be better established than another, it is this, that no republic can long exist, unless intelligence and virtue predominate among, and characterize the great body of its people. Gathered principally from the older states of this happy Union, our fellow citizens have, for the most part, participated, more or less, in

the benefits of their excellent and long established institutions—their common schools, and all their highly improved literary and religious establishments. We may therefore, justly claim for them, the present possession, in equal degree with our fellow citizens of the older and more favored states; of those high and ennobling attributes of human nature, intelligence and virtue. But in so far as we may justly claim this high distinction, in the same proportion are the motives stronger, and the obligation more imperative, to secure to those who shall come after us—to our own children—at least, an equally elevated rank in the scale of intellectual being. But, have we been sufficiently mindful of this great duty. Not experiencing in our own person, perhaps, or but in a slight degree, the immeasurable evils likely to result from a deprivation, in early life, of the benefits of such institutions, have we not accustomed ourselves to think but seldom, and then with too much indifference, upon the vital importance of the establishment, multiplication and perfection of similar systems, in our own beautiful, but recently reclaimed peninsula? The character of our state, the happiness and the destinies of our people, are fast passing into the custody of those who shall come after us; and shall it in future times be said of them, that through the improvidence of their fathers, it was their unspeakable misfortune, to be deprived of those advantages of early mental, moral and religious education, that we ourselves have possessed?

The importance of the early and methodical development and culture of the intellectual faculties of man; the influences which habits formed, and knowledge attained in early life, (through a general and judicious system of education,) cannot fail to exert, not only upon individual happiness, but upon the political institutions of our country; have been too frequently the topics of discussion among the learned, the wise and the eloquent of the land, to render it necessary or proper for me to delay you by further comments upon the subject. I recommend a careful review of all existing statutory enactments, relative to the system of education heretofore adopted in the state, and especially relative to that part of it, which concerns the broad basis of the whole—the common schools.

I know of no section of the Union, in which the subject of education, (comprehending a system of common schools,) has engaged more the attention of the public authorities, or for a longer time, or more successfully, than in Connecticut. And appreciating very highly the benefits to be derived from long-tried experience, I respectfully lay before you some well reasoned reports made to the legislature of that state, exhibiting the present condition and the leading features of their system. I am not in favor of a literal and too servile adoption of the legislation of other states; our systems should, in general, be *our own*, and be made

to accord with whatsoever may be peculiar in our circumstances, or in the condition of society among us. But considering the success which has attended the efforts of our fellow citizens of that state, in the great cause of education, I have supposed that an attentive examination of their greatly perfected plans, might suggest important improvements in our own. That *our* system is susceptible of amelioration, in many particulars, I have little doubt; while at the same time, it is proper to remark, that in this, as in all other matters of legislation, no innovation should be made, but with great caution, and the more especially, because its establishment has been so recent, that its merits can scarcely yet have, in all things, been fully tested. For reasons, however, which heretofore I have had the honor to communicate to your immediate predecessors, and which I propose again to advert to, I do not hesitate to recommend, that a more equal and just mode of taxation for the sustainment of common schools, be substituted in lieu of the existing provisions of the law in that respect. And also, that the fiscal arrangements and pecuniary affairs of the system be either separated entirely from the other more intellectual functions of the superintendent of public instruction, or else, that by some other appropriate modification of the law, the existing powers and duties of the superintendent, relative to pecuniary affairs, may be made more entirely subject to the direct control of the head of the financial department.

The revenues necessary for the erection of school houses, and the sustainment of the system generally, are derivable first and principally, from a course of taxation provided for by existing laws. The entire plan upon which this course of taxation is founded, seems to me obnoxious to the most serious objections. The legislation of last year, though beneficial, in no wise removed the evil.

Every system of taxation, to be just, should be reasonable, equal and uniform. It is a proposition as notorious as it is lamentable, that the assessments of taxes for school purposes, as well as for highways, are neither uniform nor equal, and in some instances, have been most highly unreasonable. The legislature has prescribed no uniform standard by which assessments are made; the same species of property, and of the same estimated value, may be taxed a hundred fold more in one district, than in another, bordering upon it; and every little neighborhood may be erected into a separate school or road district, with power to tax almost at pleasure. But the power of taxation is one of the highest attributes of sovereignty. It should never be exercised but with much caution—the most mature consideration, and the most scrupulous regard to justice, uniformity and equality. If otherwise exercised, it becomes unjust and oppressive. No tax, I am persuaded, would be paid by the people of Michigan, with more cheerfulness, if it be just, equal and uniform, than a tax for the hallowed purposes of education. But it

deeply concerns the honor and good faith of the state, that the practical injustice of our present system should be obviated, and the evils I have alluded to, promptly corrected.

The remaining source of revenue, applicable to the support of our common schools, consists in the annual interest accruing upon the purchase money, for which sales of school lands may have been, or may be effected; and the rest reserved for the use and occupation of such as may be leased.

This resource, upon which so much expectation was founded, seems too likely, for present purposes, in a great measure, to fail us. The overthrow of the general currency of the nation, which has produced so much distress, and the continuing process by which, what little remains available, seems rapidly passing out of the state, have already prostrated all uniform standard of value; and the ruinous diminution in the prices of agricultural products, have rendered all real estate of little present worth. School lands, therefore, are no longer sought after by purchasers; and, hitherto, in times of so great pressure and general distress, the legislature have found it difficult to resist applications for relief, and delay of payment on the part of those who have heretofore purchased these lands.

From this source, therefore, little, comparatively, has been realized, and the sanguine hopes of the friends of education, have been thus far disappointed. The same general cause, very materially affects also the present condition, and, for a time, the future capacities of the university. What great interest of the country, indeed, has not felt its blighting influences? Aided most materially by the loan which it was heretofore authorized by the state to negotiate, the principal buildings necessary for its accommodation, have been steadily progressing, and with a solidity of workmanship and material, and an architectural taste, worthy of its high destination, and of the state. The four buildings for the professors, commenced last year, are finished; the university grounds are handsomely inclosed; commodious apartments for sixty-four students will have been finished in June next, and a valuable library, consisting of three thousand seven hundred and seven volumes, have been received. There are seven branches of the university in operation, viz: at Detroit, Pontiac, Monroe, Tecumseh, White Pigeon, Niles and Kalamazoo. Thirteen teachers are in employ, and the number of pupils is two hundred and forty-seven. The disbursements of the university have been great; and, I fear that the original calculations of the board of regents, under whose direction and control the work has proceeded, were founded upon presumed resources, which the universal depreciation of property, may prove to have been in some degree fallacious. The last legislature, by resolution, required of the board, that they should cause a report to be made to you, during your present session; the pecuniary affairs of the

institution will then probably be fully exhibited to you. The reputation of the state, certainly, if not the public faith, requires the most strict and punctual performance of all its pecuniary responsibilities. I would recommend that by a special committee, to that end appointed, a critical investigation be made of its financial concerns, with a view to such ulterior legislation as the exigency may require.

The commissioners appointed according to the provisions of the "Act to provide for the sale of certain lands to the settlers thereon, and for other purposes," have performed the laborious and very highly responsible duties devolved upon them, in a manner creditable, I think, to themselves, just to the public, and, I have reason to hope, satisfactory to the community. Their report to me of their proceedings, I herewith lay before you. It exhibits briefly, but very clearly, the scope of their operations and the principles of their action. While you will, equally with myself, feel deep regret and disappointment that the university and state lands should, in point of quality and value, fall so greatly below our previous expectations, yet I also persuade myself, that you will not feel the less disposed to approve and sanction the justice of their decisions. That portion of the report which treats of the expediency of further legislation in the matter, is, in strictness, extra official. It can be considered, I apprehend, only in the light of a gratuitous expression of opinion; but it is the opinion, I have no doubt, of just and honorable men, particularly conversant with the subject; and results from their sense of what justice may seem to require; as such, I would respectfully commend it to your favorable, but cautious consideration. The general result of the minute inspection which the commissioners have taken of the university and other lands, has given occasion to the belief, on the part of some of our fellow citizens that the minimum prices established for all the lands over which the state has control, are, perhaps, too high, and should be reduced. Abstractly from ulterior consequences, there is, I think, some ground for such opinion; but, on the other hand, the influences which such a measure *may* exert, upon the pecuniary undertakings of the university, and especially upon the loan the institution, under the sanction of law, has negotiated upon the credit, (or hypothecation) of these lands, or of their product in money, *at certain* legally ascertained prices, cannot, in the consideration of such a measure, be overlooked. And I submit it to you, that it is better the university should be deprived, for a time, of any productive revenue from these unsold lands, than that, in this crisis of commercial instability, a course should be adopted of doubtful tendencies, or which might bring into question the good faith of the institution.

I am not at all satisfied, gentlemen, of the soundness of the principle said to have been assumed by the treasury department of the United States, in the assignment to this state, of the lands to which we are en-

titled for the erection and endowment of a university. By the propositions which accompanied the admission of this state into the Union, the state became entitled to a quantity equal to two entire townships of land for these purposes. This quantity of the public domain had, indeed, been *secured* by acts of congress to the people of Michigan, *many years* before our recognition as a state. While yet under a colonial government, this grant had been holden out, not merely as a munificent donation, but as an inducement—as a lure to incite and encourage purchasers of the public land. The strongest motives of good policy, forbade its location in a body. It was to be taken dispersed over the state in so small quantities, as that no strong local interest should be embodied and built up, peculiar to itself, and adverse, perhaps, to the general interests of the state. But the quantity of acres was not intended thereby to be diminished. The principle excepted to, is this: that every fractional part of an entire tract, assigned to the state, is charged as an entire tract. Thus, if there be, among the tracts assigned, a fractional section containing three hundred and twenty-one acres, it comes charged to the fund as six hundred and forty acres—that being the contents of a full section and an entire tract. If, on the contrary, we be entitled to claim, as a part of the university fund, a number of acres equal to the contents of two entire surveyed townships, then there remains, not yet assigned to us, a very considerable quantity; in respect to which, I hold it to be our duty to claim it as accruing, by every fair construction of the grant and propositions. And to this branch of the subject, I ask leave to invite your special attention. I must also ask your consideration of the fact, gentlemen, that the legislature, under whose sanction the commissioners performed the duties above mentioned, and executed the important trust confided to them, made no provision for their compensation. They incurred expenses, devoted their valuable time, and performed labor, for which they should be justly and fully remunerated. Without assuming it upon myself to judge of the extent of what that compensation should be, I deemed it necessary that advances should be made to them; and I accordingly remitted to each of them, at Niles, out of the contingent fund placed at my disposal, such sum as I felt assured would be indispensable, and which they will severally account for when their compensation shall be determined on.

The annual report of the superintendent of public instruction, not yet exhibited to me, will, no doubt, in convenient season, be laid before you. I commend it, and the whole of this interesting subject, to your deliberation.

The administration of justice through our judicial courts, next merits our special regard. It is to that department of government, we look for the protection of all our individual and natural rights. It is that department, whose province it is to bring home, to the cottage and to

the palace, alike, all the benefits of wise and salutary laws. A prompt, able and impartial administration of justice, by the courts, most essentially concerns the honor and the well being of the country.

It is not in my power to lay before you, satisfactorily, the condition of the business now pending before those tribunals. It would be very desirable, if it were made the duty of the clerks of the several courts of record and chancery, to make periodical returns to the department of state, with proper classification of the number of suits and prosecutions commenced, or pending, at each term within the year; the number of jury trials; the number of judgments rendered; the gross amount of debts reduced to judgment, with such further particulars as the governor, for the time being, may require. The legislature would not only thus be enabled the more satisfactorily to define the times, and limit the duration of the terms of the courts respectively, but through such a medium, much statistical information would be collected, of lasting and great usefulness. And I respectfully renew my former recommendation, that some appropriate legislative enactment to that effect, be provided.

The law to establish two additional chancery circuits, has gone into operation since the last session of the legislature. Doubts were entertained by some, as to the policy of that law, in view of the existing organization of that branch of the judiciary. There being but one judge, having original chancery jurisdiction, fears were entertained, lest the increase of duties, thus devolved upon the chancellor, might become oppressively burdensome. The experience of another year, will test the soundness of such doubts; and by the aid of such a requisition upon the clerks of courts, as I have suggested, sufficient evidence may be embodied, to enable the legislature to determine upon the expediency of any further modification of the system.

The act to provide for the organization of courts of special sessions, &c., passed by the last legislature, has had, I believe, the most salutary influence in the administration of the criminal law throughout the state; and the establishment of the district court for the county of Wayne, has been attended by very beneficial effects. The criminal justice has been administered more promptly, more satisfactorily to the public, and at far less expense. In the county of Wayne alone, the judicious officers who have had the control of the fiscal affairs of the county, estimate the saving to the county, by the erection of those two tribunals, in point of expense, at near \$5,000 per annum.

But in all our courts of civil jurisdiction, it is too obviously true to need formal proof to establish the fact, that within a few years past, the number of suits has increased to an extraordinary extent; and the crowded and diffused operations of our courts, are looked to with a far more general and absorbing interest, than in ordinary times.

That unhappy policy of the national government, which has resulted

in the confusion, and almost the annihilation of the general currency of the Union, drawing after it the most fatal embarrassments in all the great interests of the country, has filled our habitations with distress, and our courts with suits. It has not accorded with the policy of the nation, for some years past, to foster our own domestic manufactures. We are still beholden to the "work shops of Europe," for most of those articles which are used among us, which true economy demands, or habit and comfort have made necessary, and which a broad and far-reaching political economy would admonish us, that we ought rather to fabricate ourselves. For articles such as these, the people of our state are in debt. The farmer, trusting to his own labor and to the smiles of Providence, for the means to meet his engagements, unhesitatingly purchases of the merchant, stores for his family, clothing for his children, and many of the utensils of his agriculture and of his household. The merchant of whom he buys is, essentially, but the factor of the wholesale dealer in the Atlantic cities; and he again owes for the same articles to his European correspondent. It is very manifest, that indirectly, the ultimate payment of the debt must here be sought for in the avails of the agricultural industry of the people; and until the general currency of the country became deranged, such a resource did not fail us. But when that currency becomes so far reduced in quantity, or destroyed in quality, as no longer to serve as an adequate medium of exchange, nor to meet the wants of a fair and necessary commerce, then the surplus produce of the farmer is no longer convertible. It finds no purchasers then, for there is nothing to buy with; and is either disposed of at a sacrifice utterly discouraging to industry, or else perishes, unavailable, upon his hands. In the mean time, debts contracted in good faith, and in the fair and ordinary course of a legitimate trade, remain unpaid. The foreign creditor, pressing for satisfaction, resorts to the federal or to the state courts, for redress. The resident merchant, to save himself from ruin, is driven to apply similar coercive means. Suits multiply; these, with accumulated interest, and enormous bills of cost, terminate in judgment; and as the ordinary commodities of traffic no longer command a market, and as there no longer remains a standard of value or of price, the catastrophe is but too likely to close in insolvency and utter ruin! If, happily, such scenes are not of every day occurrence, if they exist fearfully in prospect, rather than in full and actual consummation, in any event, the subject can hardly fail to arrest our most serious consideration. If there be no fallacy in attributing this disastrous condition of things, principally to the action of the national government, then it seems quite manifest, that an adequate remedy, co-extensive with the evil, can only be looked for in a change of that national policy which induced it.

To establish a national currency, has not been confided to the states;

nor does it remain with them to create any incidental institution, tending to invigorate, increase or protect it. No power has been reserved to the states either, so far to interfere with the operations of commerce, as, without materially injuring any other interest, to foster and increase our own manufactures. And when, by a lamentable concurrence of circumstances, principally superinduced by the action of the federal authorities themselves, ruin is brought upon thousands of unfortunate debtors and their families, without any moral guilt of their own, no power exists, except with those authorities, to relieve their distress, by a well guarded and "uniform system of bankruptcy." On neither of these subjects can the separate states act authoritatively. But the expressed wishes, or the well reasoned opinions of the state legislatures on all questions of national policy, will be entitled to respect and cannot but exert a just and salutary influence.

Entertaining, myself, no doubt as to the expediency and wisdom of resorting again to those measures of general policy, which, for near half a century, have conducted this nation in a course of prosperity absolutely without example in the history of the civilized world, and the excellencies of which, moreover, have been made so clearly apparent, by the miseries consequent upon its recent abandonment, I feel myself fully authorized in recommending to your consideration, the propriety, by joint resolution or otherwise, of making known your wishes and opinions upon the matter. And, in regard to the adoption of a uniform system of bankruptcy, I feel, in like manner, well assured, that such a measure, at all times heretofore, perhaps, desirable, seems peculiarly called for, by the extraordinary exigencies of the present. Any such system, however, as should contemplate coercive action by the federal authorities, upon corporations or other political institutions, deducing their existence or their powers from the authority of the states, would be deservedly looked upon, by the states, with scrupulous care and vigilant jealousy.

In your investigation of the latter branch of this interesting subject, (an uniform system of bankruptcy,) it may be of use to you to be possessed of the views entertained of it, by a respectable body of our fellow citizens abroad. I herewith, therefore, lay before you a communication which I have received from "the philanthropic law reform association," of the city of New York, and which I am desired to submit to you.

Regretting, gentlemen, that no adequate power seems vested with you, by which to eradicate the appalling evil under which our country suffers; and that, to that end, an advisory expression of your opinion is all that seems to remain with you, I respectfully commit the subject, together with the recommendation I have suggested, to your serious consideration; but, though you may not have the power to extirpate the evil, you may alleviate some of the miseries which follow in its train.

Subject always to the controlling influences of constitutional provisions, the course and practice of the courts, the taxation of costs, and the awarding of fees, come clearly within the scope of legislative discretion.

It would be desirable, if in our courts, justice were rendered without delay and without price; but the condition of society, and the character of the matters litigated, will not admit of it. The quiet and unoffending citizen, who has no litigation, should not be taxed too heavily to pay the expense of those who have. The necessary and reasonable expenses incident to the conduct of the business of the courts, should be defrayed by suitors. But when those expenses become so great as to furnish more than a fair compensation to the officers of court, and those who perform the duties required, and when, by the course of the court, those duties become unnecessarily multiplied, then the system becomes oppressive, and should be made subject to the corrective power of a legislature, studious of justice, and of the well being of society. If this sentiment be just, at a period when the ordinary business transactions of the country pursue, uninterruptedly, their accustomed course, and no extraordinary impediment is thrown between industry and success, with that accumulated force does it apply, in a crisis like this, when the regular business of the country is broken up; when the products of labor no longer command their reasonable and fixed value; and when the general currency, the only medium, and the vital element of trade, after a fitful and feverish instability, at length threatens, too fearfully, to depart from us almost entirely.

For a long time, it has been made matter of general observation, that the table of fees allowed to our public officers, was graduated on a scale of too high a compensation, and that in our courts of record, especially, the aggregate amount in each case, of taxable costs, was oppressively great. The earnestness with which the offices of sheriff, clerk, county register, and others of that grade, were sought for, greatly strengthened the belief, that the pecuniary compensation allowed to the incumbents, was greater than other branches of industry, not implying a higher degree of intellectual ability or attainment, could secure to themselves. As the number of suits, by reason of the causes I have alluded to, greatly increased, this disproportion became more generally remarked and more onerously felt. The last legislature undertook to correct the evil. They passed the act entitled "An act to regulate and prescribe the amount of fees;" reducing, by this act, the amount of charge on some items, introducing some new items, but yet considerably lessening the aggregate number of the whole, the presumption existed that the *whole subject* was intended to be embraced—the whole ground covered. While this supposition remained, the act became, on the part of some interested in its provisions, the subject of criticism. It was contended that

it did not provide a sufficient compensation. Relatively to this point, I have not examined the act with the view to form any opinion.

But doubts as to the proper construction of the act seem to have arisen, and to have been brought before the judicial authorities; and by reason of expressions, perhaps ambiguous, used in the 37th section, it is said to have been decided, by one or more of the courts, that the act *did not* repeal and take the place of the old act contained in the revised code, (*chapter two, title five, part three, page 550,*) but that it was *cumulative* only; leaving the provisions contained in the revised code, in full force, except so far as the new act provided a different compensation for identically the same items; so that the general result seemed to be, to *increase*, rather than diminish the aggregate amount of taxable costs. How far this statement may be strictly according to the facts, I am not enabled to say. A question arose in the state department, rendering it advisable to obtain a knowledge of the extent and grounds of the reputed decision, and I consequently made application for an exposition of them; but circumstances have not hitherto enabled me to obtain it.

The whole matter, however, is now again open to review. I am myself of the opinion, that the expenses, in the aggregate, incident to proceedings in court, are entirely too great; and, in the present condition of our country, especially, have become oppressive. Whether such result be attributable to the allowance of unreasonably large compensation for particular services rendered, or to the unnecessary multiplication of duties to be performed, or to both those causes, may be matter of question. That the practice of our judicial courts is unnecessarily complicated and intricate, is no new opinion with me; that, without materially adding to the security, or at all accelerating the march of justice, so much complex machinery greatly and onerously increases its expense, is, I think, beyond a doubt; and I can see no benefit in that deviation from the greater simplicity of practice, which is observable in the highest courts of some of the states of this Union, which can at all compensate for the greater hazard of loss from mistakes, and the increased expense which such complexity induces.

A single illustration will show ground upon which such opinion may be placed. While a suit is pending, the suitor is presumed by the law, always in court; if not personally, at least by some attorney, an officer of the court, whom he has retained. It has long been the established statutory provision, that all rules, orders, and other proceedings of the court should be entered of record in the journal of its daily operations, and openly read, and after correction, signed by the judge presiding. But under the existing order of proceeding, (if I rightly comprehend it,) no rule or order of the court can be enforced, unless upon proof, in certain prescribed forms, of notice to the adverse party. This is to be affected, by first obtaining a *copy* of the rule or order; of this

copy, another must be made, (however prolix the document,) to be *served* upon the party. This service must be established by a formal written affidavit; for which several copies, service, oath, &c., payment must be made. Should there be *joint* parties against whom to enforce the order, &c., all the same form must be gone through with, in relation to each one, by multiplied copies, &c.; and although such party or parties should have been personally present in court, when the rule is taken, or the order or other proceeding had, and when it is read from the journal, yet the same process must be pursued, and the same expense incurred; unless, indeed, that if the *service* were in the presence of the court, *mileage* might not be added to the bill of costs! Now, a simple statutory enactment, (and such enactment would not be without precedent,) that suitors should, at the peril of consequences, take notice, without further advice or proceedings, of all rules, orders and proceedings, in a cause pending, duly entered upon the journal or docket, (unless under such peculiar circumstances as might warrant a deviation from such general rule,) would at once cut off this prolific source of a considerable portion of the unnecessary expenses of litigation. Other modifications of the practice might, I have no doubt, be made, which would tend to relieve the unfortunate suitor of much of the expense of litigation, and without being productive of inconveniences equal to the benefits obtained by them. Such innovations might lessen what is called the "office business," of the practicing lawyer, but I cannot think it would impair his usefulness, or lessen his respectability. With less mere mechanical labor to perform, it would tend to place his hopes of success upon a basis more entirely intellectual. An habitual and microscopic scanning of bills of cost, never elevated the genius, enlarged the understanding, or expanded the heart of any man. The just claims to eminence of that most useful and honorable profession, never rested on so narrow ground!

Be this, however, as it may, a proper regard to the condition of this community demands, I think, and I therefore feel constrained to recommend, the express repeal of chapter two, title five, part three of the revised statutes, leaving the act of the last session, with such modifications as you may deem proper, to stand as the law of the land; and also, that such cautious and well considered change may be made, in the practice of the judicial courts, as may render it less complex, less intricate, and less expensive to the suitor.

In the administration of the public justice through our courts, the agency of grand and petit jurors, assumes a most conspicuous part. It is not left with us, gentlemen, to consider of those safeguards of our civil rights and liberties. They are fully interwoven with all our institutions, and our constitution has hallowed them. The duty, however, is assigned to us, by proper legislative enactments, to secure their

proper formation and their regular and proper attendance. Unless this be done, it is very certain that that inestimable branch of our judicial establishments, ceases, to a considerable extent, to subserve the high purposes for which it is instituted. So far as regards the process of their original designation from among their fellow citizens, that process is, perhaps, as free from exception, as any that could be devised. Selected, as they are intended to be, by the assessors and township clerks in each township, the presumption is, that they respect the institutions of their country; that they would frown upon all encroachments upon vested rights, and that they would comprise a fair portion of the virtue and intelligence of the country. But experience, I fear, too clearly demonstrates that this system is not always properly enforced. It too frequently occurs, that the assessors and the clerk do not make the selections required, or, if they do, that the names of those selected, are not duly transmitted. The consequences are, that our juries too often consist of the by-standers about the court, or of persons selected by the sheriff or his deputy; thus giving opportunity for the exercise of an influence not always the most favorable to impartial justice, without securing so high a degree of integrity and intelligence, as if selected in the mode pointed out by the statute. To remove this evil, or obviate such dangers, I would respectfully recommend that a law be passed, subjecting all such persons as may fail to perform any of the duties assigned to them, and so clearly pointed out, to pecuniary or other penalties, sufficiently severe, to secure a more general compliance with the law. Or, if it be deemed a more effectual course, that the townships themselves, should be subject to pecuniary penalties for such neglect of duty on the part of any of their officers; at the same time, designating the mode by which the county commissioners, through their annual levy and collection of taxes, may enforce the payment of such penalty, upon a proper certification of the fact by the clerk of the court. And I would submit also, for consideration, whether, without taking from the courts the power, upon any exigency, of filling the panel in the accustomed course, it might not be expedient to authorize them, in their discretion, to require a new or further designation of names, if, at any time, the whole number of names remaining undrawn, should prove deficient.

The public works at the state prison, have been advanced during the last season, with sufficient rapidity; and I think, with a good judgment and economy highly creditable to the present building commissioner. The whole of the west wing of the projected work, has been carried up, roofed and inclosed. The walls of the building seemed to me, upon actual view, to be of substantial material, the workmanship excellent, and the whole structure such as it should be—strong, commodious and appropriate. There will have been completed by this time,

within that structure, eighty-two secure, and I believe sufficiently ventilated cells. These constitute one-fourth of the number, that wing is capable of containing. Progress has also been made towards the completion of the yard wall. This, if practicable, it would be desirable to finish during the approaching season.

In the arrangements, so far as at present completed, there is no sufficient provision for the confinement of female convicts. It is not suitable that male and female convicts should occupy the same common apartments or prison yard. Such opportunities of intercourse, would not only be against common decency, but would tend, in no inconsiderable degree, to defeat one of the main purposes of human punishment—the moral improvement of the criminal. Our statutory law does not, it would seem, sufficiently discriminate between male and female convicts, as regards the punishment prescribed. If, in your view, gentlemen, the public finances do not at present warrant the expense of such new structures as would enable those having charge of the establishment, to keep such convicts separated entirely from each other, then I would recommend that by some appropriate modifications of the existing law, female convicts may be confined in the county jails until such new and further arrangements can be effected, with the view suggested.

The report of the commissioner appointed to superintend the construction of the state prison, exhibiting more fully the present condition of the work, I herewith lay before you.

I have received no report from the agent, or the inspectors of the institution; but from the report transmitted by the inspectors to the secretary of state, the number of convicts, and all other matters coming within the scope of their duties, will be made to appear.

I have received from the state department of the general government, since the adjournment of the last legislature, thirty-six sets of the acts of the first session of the twenty-sixth congress, which are subject to the disposition of the legislature. As desired, I acknowledged the receipt of them, and at the same time requested, if it were practicable under existing laws, that a more ample supply should be transmitted; and with them, a competent number also of the entire code of the laws of the general government. I submit to you a copy of the correspondence, and respectfully refer to you the expediency of further action on the subject, upon your part.

As you will have perceived, another topic was introduced into that correspondence, of a character somewhat more grave. The state of Michigan, bordering from Lake Erie to a point far within the limits of Lake Superior, upon a foreign nation, has a deep interest in a knowledge, at least of the *location* of its boundary. The government of the United States has reserved to itself to adjust amicably, or otherwise, with Great Britain, the establishment of this common and national

limit, which becomes, by the same act, the limit of the state. That part of it with which our settlements are brought more immediately in contact, would seem to have been definitely adjusted. But, in what manner, and where, precisely, its location may be, and what islands within the straits and wide-spread lakes, may be thus brought within the legitimate jurisdiction of our courts, and what excluded from it, our state authorities are not advised. But a moment's reflection is sufficient to enable us to perceive, that possession of official and authenticated evidence of these facts, may become, on sudden emergencies too, of the most serious importance. Indeed, it concerns the national interests and honor, that such information should be communicated to the state; for none can anticipate how soon the peace of the country may be compromised by collisions of authority, which such an act of courtesy towards our state, on the part of the national government, might fully obviate. Without waiting to consider how far it consisted with the dignity of this nation, or its accustomed magnanimity, to withhold from one of the states of the Union, information of *its own action* in a matter so interesting to such state, until a stipulation should be entered into, touching the small expense of copying the chart exhibiting the line, I should have immediately assumed, on the part of Michigan, to defray that expense, and have accepted the proposition so courteously conveyed to me, if the communication conveying it, had not reached me so immediately before the commencement of your present session. I now avail myself of the occasion to present the subject to you, and, at the same time, to suggest to your better judgment, the propriety, by joint resolution or otherwise, of submitting an application to congress for the desired information, not doubting but that, when brought to its notice, that body will, without delay, cause it to be forwarded.

The commissioners appointed according to the provisions of the "Act to vacate the seat of justice of the county of Branch, and reestablish the same," after reasonable notice of their intentions, assembled in the county of Branch, were duly sworn and commenced the execution of the trust confided to them. After a minute and laborious examination of the county, and particularly of the various and most prominent situations to which, after much consultation with the people of the county, their attention had been more especially directed, two of the three commissioners came to the very decided opinion, that the public good would be best promoted by the selection of the town of Branch as the permanent county seat, and by continuing it there, upon the same footing in all respects, as heretofore. On the twelfth day of May last, they accordingly so decided.

Although the permanent and proper location of the seat of justice in a county but partially settled, and in a new country, often presents questions of much perplexity, and requires the exercise of much good

sense and sound judgment; yet, when once so located, it ought not to be removed, except for the most cogent reasons. The evils which inevitably result from such changes, are always great, and sometimes ruinous to private interests; while their tendency to unsettle the value of property—to check the advance of enterprize and useful improvements over the country—to disturb the harmony of society, and to create and foster the local prejudices and jealousies of the people of rival neighborhoods, is decidedly injurious to the best interests of the public. One of the three commissioners did not concur in the decision of the majority. The reasons for his disagreement, he has, within a few days past, transmitted to me in writing. They are drawn up with an ability characteristic of the author. Those reasons, together with the report of the majority, long before communicated to me, I herewith lay before you. I will only superadd, that I have too sincere and too high a respect for the undoubted integrity and great intelligence of each of the commissioners, to suppose, for a moment, but that the decision of the majority was induced by the purest intentions, great deliberation and much good sense.

I herewith lay before you, a communication of a very interesting character, which I have received from the acting superintendent of Indian affairs for Michigan. I fully concur with that gentleman, touching the course of legislation indicated in the communication. By the action of the general government, the Indian title over an extensive and important part of Michigan, has become extinguished; while yet it remains, for the greater part, in its wilderness state, occupied only by the numerous tribes of Chippewas and Ottawas, from whom it was obtained, and who, in great numbers, still reside upon it. This district of country comprehends all that portion of the peninsula which lies west of Thunder bay and north of Grand river, extending to the straits of Michilimackinac; and, also, the country situated between lakes Huron, Michigan and Superior, from the latitude of Point Detour, on the Ste. Marie, to the mouth of the Chocolate river, of Lake Superior. How far the exclusive jurisdiction of the state authorities over a district of country within its undoubted limits, but over which the Indian title has not been extinguished, can rightfully be maintained, is a question which has been much agitated in the national councils; but no doubt remains but that the state possesses plenary powers over that part of it of which the Indian title is extinguished; and the decisions alluded to, by which it would seem that penalties provided for in the "Act to regulate trade and intercourse with the Indian tribes," &c., cannot by law be enforced over a country of which the Indian title is extinguished, are unquestionably correct. The right then, being fully recognized, the *duty*, I think, becomes more imperative. Shall the poor defenceless inhabitant of the forest, the native sovereign of the beautiful country we inhabit, be left

a prey to the vices of the white man? Shall the last of their council fires be extinguished forever, amid the revels of drunkenness, superinduced by a reckless cupidity, speculating in ardent spirits? I recommend, gentlemen, the adoption of such parts of the act of congress above alluded to, as shall be deemed by you applicable to the exigency; and especially those parts of it which prohibit the introduction of ardent spirits into that, which will continue to be deemed by them, to be *their* country, until the public domain shall have been converted into the fixed residence of the white man; and further, that all persons be utterly prohibited from the sale or gift, under any pretense whatsoever, of intoxicating drinks to Indians.

Among the duties devolved upon the executive of the state, there are few, perhaps, that in their exercise, involve a higher degree of moral responsibility, than such as concern the removal of subordinate officers of the government, especially of justices of the peace, (of whom there are of necessity, in every part of the state, so many,) upon charges filed. It is painful to consider how imperfect is human testimony; and how frequently personal prejudices, originating, perhaps, in a sense of injury suffered, honestly, but perhaps unjustly entertained, may induce such suppression or coloring of proof, as may lead to individual wrong. The governor *must* remove from office, a magistrate *convicted* of an "infamous" offence. He *may* remove such officer for offences not coming within the technical meaning of "infamous," without judicial *conviction* or prosecution. The constitution of the executive department is not so well adapted to the development of guilt, nor to the protection of innocence, as the judiciary. And it must always be preferred, when practicable, that charges of indictable offenses should be established *judicially*, before the executive should proceed to a final amotion. But the delays necessarily incident to judicial action, may *sometimes* compromise the public safety; and during the period that intervenes between the commencement and the termination of a criminal prosecution, immeasurable mischief may be committed by an unworthy man in office. I would recommend then, that the fourth chapter, title three, part one be so far amended as that for "infamous" offences, as well as for those indictable offences, which, in the sense of the statute, are not "infamous," the governor may, in his discretion, *suspend* from office upon such charges, without positive eviction, until judicial investigation may be instituted and closed.

Early in the month of November last, I received from his excellency the governor of Virginia, a communication covering a copy of proceedings had by the senate and house of delegates of that commonwealth, concerning certain fugitives from justice, a surrender of whom, to the authorities of that state, was demanded of the governor of New York—

with a request that they should be laid before you. It will not be considered necessary, nor is it proper, perhaps, that I should at present enter into a discussion of this subject. It connects itself materially, however, with the administration of justice, and is of deep interest throughout the Union. I cannot allow myself to doubt, gentlemen, but that while you extend, at all times, around the personal security and the natural and civil liberties of our own fellow citizens of Michigan, every necessary and proper protection, it will never be forgotten by you, that the just constitutional rights of the states, must at all hazards, and at whatever sacrifices, be forever preserved inviolate. Anticipating that you will give to this subject all that attention, which is due from a consideration, as well of the high source from which it emanates, as of the intrinsic difficulties which it presents—I respectfully submit it without further comment.

Concerning the public works heretofore projected, with a view to the internal improvement of our state, my first opinions have continued, with but little change. And I ask leave, very respectfully, to refer to the general views I expressed on that absorbing subject, in my first message to your immediate predecessors. With some qualifications, the sentiments I then entertained, as to the course of policy which prudence and wisdom would indicate, have been strengthened by whatever changes time may have produced in our relative condition. Some further considerations have pressed themselves upon me, however, to which I venture to allude. Deeming it my duty, as far as practicable, to make myself acquainted with all the great interests of the state; and being advised of the projected work upon the St. Joseph river, I held it proper that I should obtain more knowledge than I possessed of that, as well as of some other parts of the state. Of the capabilities for the navigation of that stream, and of the character and extent of the resources of the country which it waters, I desired more fully to acquaint myself. The cursory examination I was enabled to make, has resulted in the conviction that the best interests of the state require, that the contemplated improvement should progress. The population of that portion of the state, already so respectable for its intelligence, enterprise and numbers, must greatly, and I think, rapidly increase; for no country is more fertile, none can furnish in greater abundance and variety, the products of agricultural labor; none exhibits greater natural facilities for manufactures; none more ample hydraulic powers, and no part of our country holds out greater promise of permanent salubrity, than the beautiful valley of the St. Joseph, from its termination at the town and port of St. Joseph, until it approaches the splendid district of Prairie Ronde. The natural outlet for the productions of this valley, already of great amount and value, is the St. Joseph river.

Its navigation, for a great distance may be made good, for a comparatively small expense; and should Indiana continue to withhold all aid in the improvement of the navigation of that small portion of the river which is within her borders, it will become a question of deep interest with Michigan, when her resources shall have become more ample, how far it may be practicable to unite the two sections of the river by a short canal, entirely within the limits of our own state. This important avenue ought not to be blocked up, nor its ample commerce drawn off, to enrich and build up some large commercial city upon the shore of the lake, to the south of us. No measures within the power of Michigan, should be omitted to prevent the diversion of that commerce from its natural source, and point of concentration, at the town and port of St. Joseph. All speculative considerations of this character, however, which reach beyond the appropriations already made, except so far as they may tend to fix the future policy of the state, seem precluded by the paucity of pecuniary means now left within your control. The sudden subtraction from the available resources of the state, of near half a million of dollars, by the mysterious operations of the State bank, and of the fiscal agents of the state, followed by the necessity of again borrowing money upon the credit of instalments of the five million loan, not yet payable, and by the still more appalling intimation, that the whole sum due to the state by the Morris canal and banking company, now amounting to more than eight hundred thousand dollars, was in the most imminent peril of total loss, with other considerations perhaps, induced the last legislature, as you are doubtless aware, gentlemen, to close its session without any efficient provision for the advancement, (beyond the expenditure of the existing appropriations,) of that bold plan of internal improvement, which has been unhappily devised; except, indeed, that they sanctioned, (and wisely, perhaps,) a further extension of it, by the purchase in behalf of the state, of that portion of the Lake Erie and River Raisin railroad, which extends from Monroe to La Plaisance bay harbor.

And in truth, the plan originally devised, was altogether disproportioned to our means; it was gigantic and visionary. I suppose it to be the part of wisdom, in private life, to do *one thing* first. It cannot be otherwise with states. It can never be either expedient or wise, to undertake more than can be fitly and within a reasonable time, accomplished. But with us in Michigan, we have many things begun, but nothing finished. We have nothing yet productive! It is nevertheless very manifest, that if the whole of the resources of the state had been concentrated on any one of the important works devised, such work would most probably have been accomplished before this time.

If judiciously selected, it would have been productive, too, and with

an income from tolls, large enough, not only to meet the demand for interest, but gradually to discharge the principal. The state would now have been so far unembarrassed, as that, with fair hopes, and cheerful ardor, it might have undertaken such other work, as would have ranked next in point of importance, to the first. Nor would the sad alternatives then have presented themselves, of a course of heavy taxation to pay the semi-annual interest upon the public loan, on the one hand, or a decayed credit, a forfeited faith and a blackened reputation on the other, to check our courage, and darken our bright prospects for the future. And, to rescue our constituents and our state from a condition so rapidly approaching, and yet so humiliating and so full of peril, I think, gentlemen, that but one course remains, that is to consent to look at our great public works, solely as a matter of finance; as a measure of pecuniary concern merely; at once, and manfully, to sacrifice on the altar of true honor and patriotism, all local prejudices and partialities, and, with one accord, to apply all the available means that remains to us, to the completion of that one of them, which will most certainly be productive; which, from a full consideration of all circumstances, and an honest estimate of chances, will furnish the *strongest and best guaranty*, that its pecuniary avails will the most certainly be equal to the semi-annual interest which the state *must* soon cast about for ways and means to pay. And I greatly deceive myself, gentlemen, as to the intelligence and sound judgment and patriotism of our fellow-citizens of Michigan, on this matter being plainly and with candor placed before them, they will almost with one voice, unqualifiedly, approve of and sanction the measure.

If, upon consideration, you should determine upon this principle of action, it will remain to ascertain which of the different public works will furnish the greatest amount of pecuniary profit? The statistical information contained in the returns of the United States census, now recently completed, and to which you will doubtless have access, will probably greatly aid you in your efforts on this point, to arrive at just conclusions. I herewith, also, respectfully submit for your consideration, communications I have received from some distinguished gentlemen, living in the interior of the peninsula, on the same subject. And should your investigations lead to the conclusion, that the Central railroad will be more certainly productive of such profit than any other of the public improvements commenced, it will perhaps be satisfactory to fortify such conclusion by the consideration, that the faith of the state is by many considered as pledged for the early completion of that work; for it will be perceived by the communication of the president of the "Detroit and St. Joseph railroad company," to be found among the printed documents of the Senate, of 1837, that assurances on the part of the state.

that such road *should* be completed, constituted a condition, or a material part of the consideration of the sale by that company, of its chartered rights, and the sale being effected, the motive of its voluntary dissolution.

But whichever of the public works may be selected, upon which *first* to apply the undivided energies and pecuniary means of the state; or, indeed, whatsoever other course may be taken in this regard, radical changes, I apprehend, will be found necessary—in the process and in the application of the proceeds of the general, or property tax for state purposes—in the act for the appraisement and satisfaction of damages, claimed for right of way, &c., and in other parts of our financial system.

During the last session of the legislature, very large appropriations. (made in previous years,) on the public works, were outstanding and unexpended, because there were not adequate funds in the treasury. Nor indeed were there any to defray the ordinary expenses for the support of government. To provide for those wants, it was deemed necessary to pass the "Act to authorize the anticipation of certain instalments of the five million loan." This was pursuing essentially, the policy in this regard, of former years. Since the first formation of our state government, the "civil list" has invariably been met by *borrowing*. And, in this particular, the leading provisions of the act of March, 1839, were reenacted and renewed. For the time being, this course has subserved its purpose. After communicating with different banks, the auditor general closed an arrangement with the bank of Michigan, by which the sum of about \$605,467.50 has been obtained; of which, \$100,000 were placed, according to law to the credit of the "general fund," and the residue to that of the "internal improvement fund." These advances were made upon the credit of instalments not then payable—the last of which, indeed, does not become payable until April, of the present year. In consenting to this arrangement with the auditor general, as, indeed, in all its negotiations with the state, of which I have any knowledge, it gives me great satisfaction to say, the officers of that useful institution, have uniformly conducted towards the state in a spirit of commendable liberality, honor and patriotism.

Funds being thus obtained, progress has been made on all the most important lines of improvement. And, during the fiscal year, the actual disbursements in this branch of the public economy, as will be more fully shown to you by the report of the board, amount, in the aggregate, to the sum of \$463,816.85, exclusive of the cost of the new purchase at La Plaisance bay. It further, by that report, appears, that during the period intervening between the 1st of December, 1837, and the 31st of March, 1840, there had been paid on the Southern railroad, \$120,793.39, and a further sum of \$56,981.47, passed upon and allowed by the acting

commissioner, since the 31st of March last. To which sum, if the cost of the new purchase of the La Plaisance bay road, (\$32,500,) be added, the total amount of expenditures for the year, upon the line of improvement, would be equal to \$210,274.86. The amount actually paid upon liquidated claims, for work on the Central railroad, appears to be \$56,774.42. The amount now appearing due on that portion of the route which is between Dexter and Jackson, is estimated at \$17,476.10, and upon the presumption of future appropriations by you, the bank of Michigan appears to have advanced, in aid of the road from Ann Arbor to Dexter, the sum of \$34,387.54, equal, in the aggregate, to \$102,648.96. The amount expended on the Clinton and Kalamazoo canal, from December 1, 1839, to April, 1840, appears stated at \$32,897.18, and from the latter period to December 1, 1840, at the sum of \$134,615.10, making, in the aggregate, the sum of \$167,512.20, leaving unexhausted, the sum of \$20,000 of former appropriations; which sum, together with the addition of \$21,739.10, it is estimated would complete the canal from Rochester to Frederick, and within two and one-half miles of Mt. Clemens. The duties which have developed upon the board of internal improvement during the past year, have been incessant and laborious. The perplexed and unsettled condition in which the affairs, contracts and funds of the board were found, will sufficiently appear by reference to the voluminous report of the committee of investigation, appointed by the House of Representatives, and which held its sittings during the recess; to which report I respectfully solicit your attention.

The appraisers appointed at the last session of the legislature, in virtue of the "Act for the regulation of internal improvement," commenced their sessions early after the adjournment of the legislature. The duties assigned to those gentlemen, were of a highly important, grave and difficult character. And it soon became evident, that the aggregate amount of allowances, would far exceed the appropriations and funds applicable to the object. Anticipating the probability of such result, I felt, myself, desirous that the board should receive, examine into, and so far pass upon the whole, as to ascertain their character, and the aggregate amount of such as they might deem just and fair, with a view to a proper dividend among all, in proportion, of the funds applicable to that object; or, without making final decision upon any, (if the amount should, as I apprehended, far exceed the present means of the treasury,) to prepare and make to you a full report upon them, that in your wisdom, you might make such final provision for them as might seem to you just, and within your power; but the appraisers not deeming it competent for them to adopt a course which should induce so great delay, and withal, it appearing to them just, and according to the intent of the law, that those whose claims had been ascertained and affirmed, should not be further

delayed of payment, they proceeded to definite action upon them severally, as they were taken up. The amount of claims on the canals and Northern railroad, allowed by the board, soon amounted to the sum of \$30,815, which were paid or adjusted by the auditor general. Claims on the Central railroad, amounting to near \$6,000, were ascertained to be well founded, and others, exceeding \$10,000, on the same route, were exhibited, and to the amount of \$20,000 on the Northern railroad, near \$14,000 on the canal, \$3,000 on the Sault de Ste. Marie canal, and to \$46,560 on the Southern railroad, were presented, constituting, in the whole, an amount exceeding \$130,000. In short, it became manifest that if the board should persevere in passing definitely upon all claims presented, the existing resources of the treasury, at all applicable to the object, would be forthwith exhausted, and a special session of the legislature would become indispensable, to provide ways and means to carry on the ordinary operations of the government. In these circumstances, I could no longer hesitate as to the course which prudence indicated, and earnestly recommended to the board of appraisers, to suspend their further action. I now respectfully recommend the revisal of all existing provisions relative to the appraisal and satisfaction of claims of damages for the right of way; and that either a definite sum, to be determined by the legislature, be proportionably divided among all whose claims are found to be just, or that such future board as may be appointed to perform this necessary duty, be directed to report their decisions to the legislature for confirmation, before payment is made upon them.

The report of the auditor general will be laid before you, gentlemen, and I recommend it to your most serious consideration.

It cannot be necessary for me to press upon your notice, gentlemen, that it is at once our interest and our duty, to cherish the public credit, and save inviolate, the public faith. These are axioms which are at the foundation of all good government. It is our duty to see that they constitute the broad basis of our own. All government is attended by expense. To meet that expense, there must be taxes. All taxes are inconvenient, and often lead to discontent. If they be *unjust* or *unequal*, they *always* do. But if they be *just* and *equal*, an enlightened people will meet them cheerfully; for all know that government cannot be sustained without expense. But it is also necessary that these taxes should be rightfully apportioned, and these expenses defrayed with good judgment, and for proper purposes. A wise legislature cannot effect all this without a well balanced and a judicious system of finance. Have we such a system in Michigan? I beg to call your attention to some results exhibited to you in the auditor's report. For the year 1838, as he states to you that the amount of assessments of taxes for the support of the state

government, was \$85,906.97; but the expenditures for the support of government for that year, were \$168,485.09. The amount of assessments for 1839, was \$92,385.43, and the expenditures during the same year amounted to \$169,368.95, besides leaving a large amount unpaid and to be met by the ways and means of the succeeding year. In short, it appears that during the first four years of our state government, a debt of nearly \$400,000, has been created, beyond the means provided for its redemption. I am sure it cannot be necessary that I should entreat your serious and earnest consideration of these demonstrations. They force themselves upon our attention. Nor can we fail to perceive that unless a corrective be found, their ultimate tendency is to dishonor and ruin. The question with you then, fellow citizens, will rather be, how best to avert the evils? Where is the best corrective to be found? Shall we look for it in a decrease of our expenditures? The interest upon the public debt must be paid. Our causes of expense are already greatly decreased; and the auditor general has said to you, that with the exception of the trifling sums paid for the inspection of brigades, and the reduction of the sum paid for bounty on wolves, he can see nothing which would materially reduce the annual demands upon the treasury. Would you further decrease the compensation of those who are employed in the public service? This would be, perhaps, a fearful experiment. If you lessen compensation much below the point which talent and intellectual endowment, and unquestioned integrity would command in the private vocations of life, you would drive much talent and intellectual capacity from the public councils. No poor man, honest and capable, could afford to serve you. His duty to his family and to himself, would compel him to seek employment elsewhere. Your government then would remain only with the wealthy. This is not the theory of our institutions; or else, with those who would seek remunerations for their services, by converting political power, to improper and selfish ends. If, then, retrenchment in the compensation of the agents of the people, be neither just nor politic, it results, that the treasury must be replenished by an increase of taxes. But the public taxes are already onerous. Many of them on real estate, are no longer paid, and the lands are falling fast within the grasp of the speculator. And vast is the mischief, and incalculable is the amount of judicial litigation to which this course will give birth. One million and a half of acres—or according to the computation of others, two million and a half of acres—of land within the state, remain exposed to this process of sale for taxes. Such a condition of things cannot be too much deprecated. But why is it that so many acres are advertised for sale? Your auditors' report exhibits the cause. The amount of tax assessed for 1839, for state purposes, upon an eighty acre lot of land, upon a general average, varies, he tells you, "from forty to fifty-nine

cents; while that for the counties varies on the same lot from sixty-five cents to two dollars fifty-two cents; the road taxes from one dollar twenty cents to five dollars; and the highest amount of school tax, is stated at twelve dollars twenty-six cents." And if the largest amount which has been assessed upon any lot, be taken as the average upon the entire valuation of property of the state, the result would show an aggregate tax over the whole state, of more than \$4,800,000 per annum!

A system which leads to such enormity, I am persuaded, cannot endure; a system practically so unequal, so oppressive and so extravagant, ought not to endure. I respectfully recommend a further restriction upon the power vested in the county commissioners to assess taxes for county and township purposes, coupled with authority to levy specific taxes, for county purposes, where necessary.

I also recommend a total abolition of all authority heretofore vested in commissioners of highways, and all other local officers, to levy any road or highway tax whatsoever, upon real estate; and in lieu thereof, to direct the auditor general to assess, levy and cause to be collected in the same manner as other general state taxes are by law to be collected, such an amount of taxes as you may deem necessary and expedient, to be divided rateably, apportioned and paid over to the several local officers whose duty it is under existing laws to disburse and pay out highway taxes, and that in making such assessments, the auditor general, (or other state officer,) compute the same according to the *quantity* of the land, the number of acres, and *not* according to the increased value imparted to it by the industry of the owner or occupant, except so far as you may deem it expedient to make other provisions for city or town lots; and that as regards taxes for school purposes, that the auditor general add to his assessments of general state taxes, such further sums as you may deem expedient to be paid over to the proper disbursing officers of the several school districts of the state, in just and rateable proportions. And in order to supply the deficiencies in the state treasury, I would recommend such increase of the rate of the "general state tax," as you may deem adequate or necessary, that so much of said general state tax as is duly collected annually be placed in the books of the auditor general and state treasurer, to the credit of the general fund, and not to the delinquent tax fund, so that the taxes actually collected and paid over each year, shall no longer be charged with the payment over to the counties, of the delinquent taxes accruing to such counties, or for county, township, highway or school purposes in the same year. I would further respectfully recommend that some mode be adopted by you, (by state commissioners of equalization, or otherwise,) to cause the

valuation and assessments returned from the several counties annually, to be equalized, so that hereafter there may be a more equal standard of value.

I make these suggestions concerning our revenue and financial system, gentlemen, with great deference for your experience and collective wisdom. So complex and difficult a subject, I desire to approach with great diffidence of my own capacity to do justice to it; but I make them because it is my duty to recommend to you such measures as may seem expedient, and because it is my fixed opinion, that some such measures have become indispensable.

I have received, gentlemen, some communications from the state geologist, and from the adjutant general, which, having reached me at a very late hour, must become the subjects of a future communication to you.

During your present session, or at some adjourned or special session to be holden by you, it will become necessary for you to apportion the state anew, into senatorial and representative districts. Circumstances may exist to render it proper that I should at some future period during your session, make a further communication to you on that subject; but in the interim, I ask leave respectfully to refer to my correspondence with the secretary of state of the United States, in which allusion is made to it.

The act passed during the last session of the legislature, for the appointment of a United States senator, has expired by its own limitation. The provisions on that subject, contained in the revised statutes, may be deemed by you sufficient to meet the present exigency, perhaps. In any event, the importance of filling the vacancy which will soon exist, in consequence of the approaching expiration of the term of service of the honorable John Norvell, will not escape your observation.

I have received communications from some of the states of the Union, and also from the District of Columbia, which, as well also as the unsettled condition of the currency of the state, will probably be made the subject of a future special message.

I feel it to be my duty, gentlemen, again to ask the attention of the legislature to the unauthorized and forcible interruption, by the troops of the United States, of the public works of the state, during the year before last, at the Sault de Ste. Marie. The pecuniary loss to the state, resulting from that reprehensible interposition, remains unsatisfied, and the injury to its honor unatoned for. I respectfully then, renew my recommendation of the last year, that the matter be formally presented to the consideration of congress; and with that view, ask leave to refer to the able report presented by a committee at your last session, to the house of representatives, on that subject.

I also present for your consideration, some communications between myself and the officers of the general government, concerning the rude and unjustifiable action of some of the subordinate officers of the customs of this place, in relation to the honorable the late speaker of the house of representatives, which took place at the time of the adjournment of your last session.

The honor and prosperity of our state, and the happiness of our constituents, are the great objects for promoting which, it is our duty—with an humble submission to the Divine will—to use our best efforts. And it will give me great satisfaction to be enabled to co-operate with you in any measure leading to so great blessings.

WILLIAM WOODBRIDGE.

January 9, 1841

From *Documents Accompanying Journal of the House of Representatives*, pp. 235-236

To the Senate and House of Representatives:

It was manifestly anticipated by the last legislature, that progress should be made, during the summer months, in the improvement of the state salt springs, at Grand River, in Kent county, and at the Tittabawassee, in Midland county. Deeming it of great importance to the interests of the state, that the contemplated works should be undertaken by men of experience in operations of this sort, the state geologist, to whom the necessary arrangements were committed, lost no time in opening a correspondence with gentlemen residing at the extensive salt works at Kenhawa, in Virginia, and at Salina, in New York, with a view, if practicable, to enter into contracts with persons scientifically and practically acquainted with the business. He was not so fortunate as to procure any person willing to undertake the work, upon fair terms, from either of those places. In the meantime it became necessary that the geological and topographical survey of that part of the state which borders upon Lake Superior, should progress; the season was advancing; and the work did not admit of delay. After taking requisite precautions for the preservation of the works commenced, and the materials and utensils procured and belonging to the state, he proceeded to the country of the upper lakes.

Finding, upon his return, that no hope remained of entering into contracts with any person accustomed abroad to similar works, upon consultation with me, he resorted to what seemed the only proper expedient that remained, and advertised in the newspapers for proposals. That course has resulted in the conditional adoption of contracts which,

within a few days past, have been submitted to me, of which I herewith submit copies for your consideration.

By the provisions of the "Act for the improvement of the state salt springs," passed at the last session, every such contract must receive the assent of the governor before it can take effect. I feel no difficulty in acting upon this matter; but supposing that the reference to the executive, for his assent, was founded upon the presumption that such contract might be entered into at a time when the legislature was not in session; and not knowing but that you may now entertain different views as to what our true policy may require, I have deemed it proper to present the whole subject to the legislature, and respectfully to ask their pleasure and advice in the premises.

WILLIAM WOODBRIDGE.

January 11, 1841

From *Journal of the Senate*, p. 62

To the Senate:

I have received a communication from the superintendent of public instruction, which I respectfully, herewith, lay before you; and submit to you the expediency of giving effect to the views there presented.

I am not insensible of the great inconveniences which always result, especially in pecuniary affairs, from frequent changes of system. A rigid adherence to punctuality, in private and social life, is of importance; but in respect to the financial operations of the state, it is of far greater consequence. Nevertheless, the reasons suggested by the superintendent, in favor of the deviation from the general rule, which he suggests, growing as they do, out of the action of the legislature itself, seem to me, to sanction the measure he suggests, for the present year.

WILLIAM WOODBRIDGE.

January 12, 1841

From *Journal of the Senate*, pp. 65-67

To the Senate and House of Representatives:

Gentlemen—Since the month of August last, I have been aware that serious difficulties might be apprehended in the location of the boundary line between this state and the territory of Wisconsin. A strict adherence to the terms in which that boundary is sought to be defined by the act of congress, entitled "An act to establish the northern boundary line of the state of Ohio, and to provide for the admission of the state of

Michigan into the Union, upon the conditions therein expressed," would seem, by information more recently communicated to me, by the state geologist, to be absolutely impracticable.

It is not wise that a topic like this, should be left to disturb the future harmonies of society, and embarrass the operations of the state. It is better, that whatsoever difficulties exist, should be met at once; before they become aggravated by time, and before the growth of individual and local interests shall have added bitterness to the points of doubt or difference.

A critical examination of the topography of the country through which the line must pass, appears to render a strict and literal conformity with the directions contained in the act of congress, impossible; but the general intent of the act, it is presumed, can be attained without much difficulty, if early and appropriate measures be taken. In order that the nature of the difficulties I allude to, may be more fully before you, and the more readily seen, I respectfully present to you the last communication I have received on the subject, from the state geologist; (for whose vigilance in detecting them at so early a period, I feel much indebted,) and have also requested him to cause to be prepared, by the state topographer, for your use, a diagram, or general sketch of the country through which the line must pass; and which though in some respects conjectural, will nevertheless present with sufficient certainty, the disagreements that exist between the description contained in the act of congress, and the actual geography of those regions.

It is not competent for congress, I apprehend, to vary the proposed line, in any respect, without the assent of this state; and so far as the matter of boundary may be considered as established by our fundamental law, it may be very doubtful whether the legislature of this state may of its own authority, assent to any essential alteration in it, unless by such process as is provided for effecting any other alteration in our constitution. But so far as ambiguity exists in the act of congress, it will be deemed subject to the same general rules, by which effect may be given, by construction, to the general and leading intent of the parties to it. I deem the object of sufficient importance to make the attempt, at least, and at the earliest practical period. I, therefore, respectfully recommend, that by memorial, joint resolution, or otherwise, you urge this matter upon the consideration of congress, and request that body to cause the line in question to be surveyed, and that simultaneously with the survey, a commissioner be appointed by the general government, to attend, conjointly with a commissioner to be appointed by this state, and who, by their concurrent action, so establish the boundary in question, if practicable, as shall be in conformity with the manifest general intent of the act of congress; and

unless you should be of opinion that a distinct appointment of a commissioner, should be made, on the part of the state, I respectfully submit to you the expediency of making it by law, the duty of the state geologist, to attend to the matter, in behalf of this state, in character of commissioner, in the event that the general government should conform to your request.

Deeming it important that this matter should be presented for the consideration of congress at as early a day as practicable, during this, its short session, I have not taken time to copy this communication, nor the documents which accompany it; and respectfully solicit that they may be considered as addressed to, and for the use of both houses.

WILLIAM WOODBRIDGE.

January 14, 1841

From *Journal of the Senate*, pp. 140-142

To the Senate:

Gentlemen—Shortly before the commencement of your present session the state treasurer was enabled to bring to a close the negotiations he was instructed to commence, with a view to the more effectual security of the large debt owing to the state by the “Morris canal and banking company.” The act of the last legislature, by which this duty was devolved upon the treasurer, was well timed, and wise in its provisions. The trust was of the highest importance; its successful prosecution required great diligence, devoted assiduity, and business talents of a high order. No agent could have been selected, in whom all the requisite qualifications were more eminently united, than in the gentleman who has conducted, on the part of Michigan, this negotiation. And I do not hesitate in the opinion, that but for the measures pursued, the state would have suffered the total loss of at least half a million of dollars. Since your session has commenced, report has been made to me of the proceedings of the treasurer, which it gives me great satisfaction to lay before you.

The amount due to the state from the “Morris canal and banking company,” and which was in so great jeopardy, is an increasing sum, now amounting, as you will perceive, to about \$823,000.00, for the guaranty of which, assignments have been taken, by way of hypothecation, valued at \$621,000.00, and which, upon the most reduced calculation, are estimated decidedly good for one half million of dollars. And the very fact of the consummation of this amicable arrangement, seems likely, of itself, by its favorable influence upon the business operations,

and the reputation of the company, so far to enlarge and strengthen its capacities, as to furnish strong assurance that hereafter all its engagements to the state will be met with promptitude and punctuality.

The report is accompanied by three distinct documents, marked A, B and C, which I also lay before you. The document marked A, contains the terms of the agreement entered into, in its details. I invite your critical examination of it. The agreement itself, appearing to be clearly sanctioned by the authority and enactments of the "Act to authorize the treasurer of the state to take further security for the five million loan," no further act, on your part, would seem necessary, to give it legal efficacy; but you will perceive in it, a clause which will render it necessary that provision be made for the selection and appointment of the agent contemplated, in the city of New York; and in providing for that appointment, I would recommend that regard be had to the possible contingency, that the agent first appointed, may refuse to accept the trust, may die, or that cause may exist for vacating such appointment and making another, during the recess of the legislature. The selection already made by the treasurer, however proper and necessary, would seem *ad interim* merely, and only to continue until you should have passed upon the matter.

The document marked B, as you will discover, contains a full and formal exposition of the nature and character of the claims of the state in the premises, and exhibits an interesting and important view of the history of the "five million loan." In reviewing the entire transaction, the exhibit marked C, will disclose the startling fact, that in consequence of the mischievous and unwarranted modifications and constructions of the original contract, our young and vigorous, but much wronged state, (unless some remedy can be devised,) will have incurred a loss of more than one hundred and twenty-one thousand eight hundred and eighty-one dollars!

In conclusion, gentlemen, I beg leave to state, that though this communication, report and accompanying documents, are presented, in the first instance, to the House of Representatives, where matters especially relating to revenue and finance customarily originate, yet they are intended for the use of both branches of the legislature, it not being practicable, without inconvenient delay, to copy them, that they may be sent in duplicate to each house.

WILLIAM WOODBRIDGE.

January 15, 1841

From *Journal of the Senate*, pp. 77-79

To the Senate and House of Representatives:

Gentlemen—The facilities which exist along this interior boundary of the United States, for the escape of fugitives from justice, are deserving of a very grave consideration. From Lake Erie to Lake Huron, the country on both sides of the straits, presents a line, of almost continuous and thickly populated settlement. Wherever there exists a dense population, crime, more or less obtains. It is the object of government, and the purpose of public justice, to overtake and punish it. The boundaries between the states of this Union, whether clearly, or but obscurely defined, impose no very formidable impediment in the march of justice; for the constitution of the general government, has provided against them. But as between this state and the provincial government opposite to us, no such provision exists; and these straits, with their shores lined, and unruffled surface covered with light canoes and vessels of all sizes, furnish such ample means, and so strong temptations for escape, as seem to set public justice at defiance. The evils which result are alarmingly great, and threaten to increase! While we continued under a territorial government, this course of evil had attracted the attention of the public authorities, both of Canada and Michigan; and by a course of very judicious legislation on both sides, fugitives were subject to be reclaimed. This course of legislation on our part, was not, perhaps, inconsistent with the constitution of the United States, because our local government then, was altogether colonial in its character; and all political authority rested upon the action, direct or indirect, of that national government, in which emphatically is vested the powers to regulate all our foreign relations. Upon our admission into the Union, claiming to rest "upon the same footing," as its other members, the legislative enactments I allude to, ceased to exist, and the corresponding provisions of the Canadian government, seem, also, no longer to prevail. Now, then, the capacity of either country to reclaim a fugitive from justice, taking refuge in the other, rests solely upon the natural aversion all civilized communities have to crime, or else upon that inter-national courtesy, which happily one civilized country exhibits towards another. I take great satisfaction in expressing my unqualified belief, that in relation to crimes, which are not merely political offences, the authorities on both sides of our national boundary have exhibited, and will continue to exhibit, every proper and commendable disposition to facilitate in this regard, the purposes of justice; but this alone is not a satisfactory, nor at all times a safe basis, upon which to rest so desirable and so vital a principle. Upon what other basis then, can it be placed? Not upon your legislation alone, for you cannot legislate for a foreign country; nor

can that foreign country legislate for us, unless, on both sides such legislation be founded upon some compact, or amicable arrangement entered into by the two provinces.

But as a state, being a member of this Union, we can enter into no such international convention; our foreign relations can be adjusted and regulated alone, by the national authorities. Governors of states have, very often, I know, so far recognized that international comity of which I have spoken, as, upon the requisition of a foreign power, to give up such fugitives as have sought refuge in such states. I am not disposed to deny the constitutional competency of such exercise of power, nor to enter into any discussion of that assumed right. It is sufficient to say, that it has been much questioned; and be it as it may, I conceive that it would be far better that the whole matter should be made the subject of convention between the United States and the British governments. My attention has been drawn to this very important subject, many times since the adjournment of the last legislature; it has been with me, matter of much solicitude. A very recent occurrence of the most painful and atrocious character, has again coerced my attention to it; and I avail myself of the occasion, respectfully to recommend, that, placing before our national authorities a view of our very peculiar situation in this regard, you, by some appropriate course, urge upon them the expediency of its being made the subject of negotiation between the two powers; and of such further action on their part, by congressional legislation, (if that be deemed competent and proper,) as may seem most likely, fully to attain the object.

WILLIAM WOODBRIDGE.

January 16, 1841

From *Documents Accompanying Journal of the House of Representatives*, pp. 33-34

To the Speaker of the House of Representatives:

Sir—I have the honor to state, that yesterday, I received, by the hands of one of the officers of the house, a verified copy of a resolution in the following words, to wit:

“*Resolved*, That the Governor be requested to communicate to this house, a statement of the expenditures made by his authority from the contingent fund of this state.”

And in conformity with the desire herein very properly evinced by the house, I herewith respectfully submit for its consideration, a statement of those expenditures.

It will be observed that the disbursements for account of the office of

the auditor general, constitute in the aggregate, much the largest item of charge against the contingent fund. In explanation of this fact, I take occasion to remark, that it was the pleasure of the last legislature, to assign to the head of that department, many onerous and most highly responsible duties, not coming within the ordinary routine of his action. His duty as commissioner to negotiate for the purchase of the River Raisin railroad, and to settle the complicated concerns of the state with the State bank, were of this description; while the amount of business devolved upon him in relation to delinquent taxes, and by a joint resolution requiring him to commence new statements of account; reaching back to the period of the first organization of the state, and rendering it necessary to search for, examine and rearrange thousands of vouchers, was such, that nothing short of super-human efforts could have enabled man, to accomplish, without the aid extended to him; to which consideration it is my duty to add, that during some portion of the last season, the aspect of public affairs was such as to render it exceedingly doubtful, whether a special session of the legislature might not be indispensably necessary for the public interests; and looking forward to such a contingency, I considered it my duty to require, that all effort possible, should be made by that most meritorious officer, to accelerate his operations so that he might be enabled to present the pecuniary affairs of the state in a systematic and true light, to the legislature, if it should be so convened. And the more certainly to secure the attainment of that object, and not doubting but that the intelligent citizens of our state would fully sanction the measure, I expressly requested him to employ the aid of such additional clerks, as to his good judgment, might seem indispensable, with a view to these considerations.

These remarks will not be found inapplicable to many of the other items of disbursement. The duties of librarian were transferred to the Secretary of State. The books were dispersed; the condition of the affairs of the state library was confused; it became necessary, at great extra labor, that those affairs should be regulated, and the books actually in the library, compared with the catalogues, &c.

The duties of commissioner of the board of internal improvement, were, from the highly perplexed and important character of its concerns, such as to require severe labor and the utmost vigilance. These duties were transferred, also, to the secretary of state; and they were particularly pressing at a time when it became necessary to prepare the laws of the last session for the press, and when the other ordinary duties of the state department were pressing upon him. The laws of the land and the intentions of the legislature could not then be enforced, without the degree of aid stated, were extended to that officer. I am not aware that further explanation than that which will appear upon an examina-

tion of the vouchers in my possession, in relation to all the items of charge, would now be of use; and as to those vouchers, I would respectfully invite the house, by its committee or otherwise, to examine them at its pleasure, simply remarking that I have not yet received vouchers in form, for two items of charge, (to wit: that of Mr. Richmond, for aid furnished from the United States land office, relative to the university and state lands, and to whom, for want of private conveyance, I have not yet transmitted the amount (\$5.00) of his charge; and that of Mr. Broadhead, for services in the library and state department, who is now absent from the state.)

I have the honor to request, sir, that the inclosed statement and the foregoing explanations, be presented for the consideration of the house.

And remain, very respectfully,

WILLIAM WOODBRIDGE.

January 19, 1841

From *Documents Accompanying Journal of the House of Representatives*, pp. 36-37

To the Speaker of the House of Representatives:

Sir—I have the honor to receive, by the hands of one of the officers of the house of representatives, a verified copy of a resolution in the following terms, viz:

Resolved, That his excellency the governor, be respectfully requested to transmit to this house, the report of the special committee appointed by the late house of representatives, to investigate the proceedings of the several boards of internal improvement. And also, how many copies of the same have been printed by order of his excellency, and what is the expense of printing, and if any part, or the whole has been paid; and if so, out of what fund.

In answer to the inquiries in said resolution contained, I do myself the honor to state to you, for the information of the house, that at some time early in the month of September last, I was for the first time advised of the terms of the order of the house, in relation to the formation and duties of the committee appointed by the house, for the purposes above alluded to. The labors of the committee were then approaching to a close and an application was made to me by one of the committee, to take order for the publication of their report; and on that occasion, there was shown to me the order of the house, in the terms following: "*Be it further resolved*, That the said committee have power to sit during the recess, at such place or places on the several lines of internal improvement as they shall deem necessary for the purposes of investigation,

and report their proceedings to the governor for publication, at the earliest practicable period." (*See page 465 of journals.*)

Feeling some reluctance, without further advice, to take definite measures in a matter so entirely referable to the discretion and pleasure of the house, I immediately presented the matter for the consideration of the presiding officer and speaker of the house, the Hon. Mr. Acker, and requested his advice as to the pleasure of the house. He concurred fully with me in the opinion, that it was due to the house and to the country, that a competent number of copies of the report should be printed, in the usual form, and as speaker of the house, he gave his unqualified sanction to the measure. During this period of time, and for a long time after, the journals of the house were not published, were not accessible by me, and I was in no wise advised of any further action of the house in the premises. On the eleventh of September, the journal being then, I believe, in the hands of the printers, I received a note from Mr. Bates, (of the firm of Dawson & Bates,) of which the following is an extract: "Mr. Backus, (chairman of the committee,) suggested to me the propriety of calling upon your excellency for an order to print three hundred copies of the report of the select committee appointed to investigate the affairs of the board of internal improvement, &c. Will your excellency send the order by the bearer?" In accordance with that request, I immediately requested, in writing, the state printer to print the report, and to cause such numbers of the same to be struck off, "as the house of representatives usually ordered to be printed, of the important reports made to the house during its late session."

The journal of the house remained unpublished, but in the process of publication, I believe, in the hands of the state printer. After the publication of the report, I obtained access to so much of the unfinished journal as is contained on the 691st and 692d pages of it, and as fast as the copies of the report could be obtained, I caused a partial distribution to be made of them, according to the direction contained in that part of the journal. And the secretary of state informs me, that as rapidly as he could do so, without hiring special messengers or incurring an enormous expense for postage, he has continued to distribute them according to those directions.

It will be observed, that in my order for the printing, I authorized the striking off of no particular number of copies, but presumed, after I discovered the special order of the house for publishing four hundred copies of it, that the state printer had confined himself within the limitations contained in that order, until after I was advised of the late resolution of inquiry recently adopted by the house. I now find that the state printer has charged for the printing of one thousand copies, and that a charge therefor has been passed upon and audited by the auditor general,

and *paid*, out of the general fund, (paper included,) to the amount of \$1,523.20.

WILLIAM WOODBRIDGE.

P. S.—I herewith send, according to the direction of the house, the original report and documents put into my hands, properly arranged, by the clerk of the late committee of investigation.

WILLIAM WOODBRIDGE.

January 21, 1841

From *Journal of the Senate*, p. 90

To the President of the Senate:

Sir—I have the honor to enclose herewith, two small charts, illustrative of the difficulties which exist in relation to the boundary line between this state and the territory of Wisconsin, being the same to which I made reference in my communication of the 12th instant, and those maps, together with the communication accompanying them, from the state geologist, I pray may be considered for the use of both houses.

I have the honor to be, sir,

With great respect,

Your obedient servant,

WILLIAM WOODBRIDGE.

January 22, 1841

From *Documents Accompanying Journal of the House of Representatives*, pp. 52-55

To the Senate and House of Representatives:

Gentlemen—Since the last session of the legislature of this state, I have received from the governor of the state of Connecticut, an authenticated copy of a certain preamble and resolution of the general assembly of that state, recommending, among other things, the passing by congress, of such national laws “as will effectually protect the labor of this country from the policy and legislation of foreign governments;” with the request that the same be laid before you, with a view to obtain an expression of your views on the subject.

Yesterday evening I received from the governor of Alabama, the preamble and resolutions of that state, on the same subject, and purporting to be “responsive to those of the general assembly of Connecticut.” I herewith submit them both to you; and as it is impossible, without too

great delay, to present them in duplicates, I respectfully ask that both the documents, and this communication may be considered as addressed to both houses.

The object involved in the consideration of these documents, is one of the most universal and momentous interest to Americans. But it has been so much, and with so commanding talents, discussed by American statesmen, that I trust it will not be deemed necessary that I should enter into an elaborate examination of it; and if it were desirable that I should, it must be manifest that the time, and proper attention to other duties, would not now permit it. But I in no wise seek to conceal my own opinions on a subject of so vital concernment. I feel assured that a great majority of the people of the United States, is desirous *that such* a tariff should now be established, as would effectually protect the agricultural and the manufacturing interests of the country. I feel entirely convinced, also, that the establishment of such a system, is our true and wisest policy. Nor can we, in the full and just sense of the term, be an *independent* people, until, relying more upon the efforts and resources of our own country for the necessities, the comforts and the luxuries of life, we resort less to the "work shops" of Europe. How great a part of the Union, is a grain growing country? and yet this great staple of our agriculture, finds no market in Europe; for the "corn laws" of England and the protecting tariffs of the continent, forever close that market against us, except when the horrors of absolute famine approach them. Upon what principle of reciprocity, then, or of justice, should we be required to admit the products of *their industry*, free of duty, or with but a light tax, when by resorting to a protective tariff, we should furnish more profitable employment for our own labor, and by increasing the manufacturing establishments of our own land, should create and enlarge a home market for our own surplus grain and other products of agriculture, of far greater value, because more regular and more certain. A reasonable protective duty upon the importation of foreign woollen factories, would at once stimulate our farmers to increase their flocks, making the production of wool a most advantageous pursuit in agriculture. Millions of dollars would hardly pay for the importations every year made, of the foreign silks of France, Italy and eastern Asia; but by the encouragement of a protective tariff, manufactories of silk would rise up over the surface of our extended continent, giving occupation and bread to thousands; the production of the raw material by our farmers would be promoted, and domestic industry would find a new and profitable employment.

But without seeking to illustrate the principles of this policy by further specifications, I will hazard the general remark, that considerations, such as I have alluded to, must have pressed themselves upon the

minds of an intelligent and reflecting people. They cannot but perceive that while the agricultural products of our country are so generally excluded from foreign markets, by the "policy and legislation of foreign governments," and that policy is not met by countervailing legislation on our part, the "balance of trade" must continue against us, draining from us the precious metals, and manifestly tending to aggravate the evils of that impaired and almost exhausted currency, of which our country so justly and so loudly complains.

In 1838, the legislature of this state granted a bounty of two cents upon every pound of sugar which should be manufactured from the beet; and the subsequent year authorized the loan of \$4,000 to the "White Pigeon sugar beet company," in St. Joseph county. In the same year, (1838,) a sum of the public money was loaned to Bethuel Farrand, to aid in his manufacture of silks, of which he had exhibited beautiful specimens. Many wise legislators in our sister states have advocated the passing of laws exempting from all taxation, sheep, and even exempting them from seizure upon execution. All this is undoubtedly founded upon the general policy of fostering our own manufactories—for when they prosper, they prevent the drain of money from the state; they furnish profitable employment for the industry of the state, and they increase and ameliorate the *home* market for our surplus agricultural products. These are truths which I think our fellow citizens fully understand. Nor is there any ground for the apprehension that our fellow citizens are deficient, either in skill or capacity, when contrasted with the manufacturers of Europe. The annual value of cutlery and other manufactures of iron and steel imported into this state, is immensely great, and yet it is quite certain that if *properly protected*, the artists of Michigan could, and very soon would, furnish to us a full supply, as excellent in workmanship, and as low in price, as the same articles now come charged to us, from abroad. The excellent specimen of the workmanship of the Messrs. L. and T. J. White, at their "edge tool manufactory," in the city of Monroe, (which has remained in the executive office for public inspection, and to challenge the public favor, since during the last winter,) sufficiently proves that nothing but *reasonable encouragement and protection* is requisite, in order to save within the state, a great part of that money which yearly goes out of it for manufactures of iron and steel. While the success which has attended the efforts and skill of the enterprising proprietors of the glass manufactory at Mount Clemens, in furnishing to our citizens, thousands of dollars worth of the articles manufactured there, fully demonstrates that "*reasonable protection*" is all that is required to enable them to save *within the state* the amount of the cost of most of the glass ware which is required by our increasing population.

But the protection requisite, to be *effectual*, must be extended by the action of the *national*, not the state governments. The individual states have no power to levy impost duties; and since all the most prolific sources of revenue have been taken from the states and vested in the federal authorities, it is vain for the states—especially the new states—to undertake to build up their manufactories by a system of bounties. Not a doubt remains, in my mind, but that a protective tariff *can*, constitutionally, be established by congress. A just regard to the wishes of a majority of the people of the United States, and to the condition of our whole country, I think, eminently demands that measure. But in expressing and acting upon that opinion, it is certainly proper that great consideration should be given to the fact, that our friends of the cotton growing states have heretofore been, and probably still are, opposed to such a policy. I am of the opinion that, ultimately, the people of those states will be found to be among the most earnest supporters of a tariff protection; manufactories of cotton will be, by slow degrees, perhaps, encouraged and grown up among them; and after having experienced the evils consequent upon the breaking up of so many of the cotton manufactories of the Union, in the destruction or great deterioration of their home market, and felt those of an uncertain and a changeful foreign one, they will, I think, of their own good sense, fall back upon the policy of a “judicious tariff of protection.” But in the mean time, their feelings and prejudices even, should at all times be respected. And, although the principle, that in republican governments, the will of the majority *must* govern, cannot be relinquished, yet that will should be exercised in moderation and mildness, lest, “feeling power,” that majority should “forget right.”

With these reflections, already too far extended, perhaps, I respectfully submit the whole matter to the wisdom and good sense of the legislature.

WILLIAM WOODBRIDGE.

January 23, 1841

From *Journal of the Senate*, pp. 97-98

To the Senate and House of Representatives:

Gentlemen—According to the requests which have been communicated to me, I respectfully lay before you, certain resolves which have passed the senate and house of representatives of the state of Maine, relating to the north-eastern boundary of the United States; and, also, certain resolves, with a preamble, which have been passed by the general assembly of Indiana, on the same subject. I also herewith submit for your

consideration, certain resolves of the general assembly of Vermont, concerning a proposed alteration of the constitution of the United States; and also the address, remonstrances and resolutions of certain authorities and people of Georgetown, Alexandria, and Washington City, in the District of Columbia, setting out certain manifold grievances of which they complain, and which they present to the people of the United States, and to the legislatures of the states, and which they deduct from the action of congress at the last session. By the communication received by me from the people of Georgetown, I am requested not only to lay before you their proceedings, but also distinctly to recommend such action on your part, as may facilitate the attainment of their object, a retrocession to the states of Maryland and Virginia, of the District of Columbia. The complaints preferred by the people of that district, are certainly entitled to the most serious consideration; the wrongs which they portray, if they exist to the extent represented, certainly demand our sympathies, and give them a claim to your intercession. I see no insuperable objection, to the extension to that people, of the benefits of a local legislature of their own, by which their own affairs, and especially every thing which concerns their own police, may be regulated according to their own deliberate will, subject always to the ultimate and paramount control of congress; and for the better protection of their local interests, that they be represented in that body by their delegate, with the right to debate, but without the right to vote. The enactments of such local legislation, deriving all their legal force from the ultimate sanction of the general government, may be deemed, perhaps, the legislation, indirectly, of the congress itself; but if such a course be considered obnoxious to serious constitutional objections, I see no reason why such modification of the constitution may not be effected, as may give effect to such a plan. Be this, however, as it may, I regret to feel obliged to say, that I cannot recommend, as I am desired to do, a retro-cession of the district to the states, to which it originally appertained. It is not fit, I think, that the congress of the United States, and the administrators of the general government, should be made in any wise subject to the local views, feelings and legislation, of any individual state. It is fit, I think, that congress, and that general government should so far possess exclusive jurisdiction, as that it might protect itself against insult, and against the policy of any individual state, if that policy should happen to be hostile to the views, for the time being, of the general government. All past history, I think, and even that of our own country, and especially the events, bearing upon such a question, which occurred at and after the conclusion of the revolutionary war, all, I think, establish the propriety and the wisdom of giving to Congress, the right of exclusive jurisdiction within the District of Columbia. I feel,

therefore, that I cannot express to you the recommendation which is requested of me. I commit the whole subject, gentlemen, as well as the subject matters of the other communications herewith presented to you, to your considerate attention and wisdom.

I further respectfully solicit that the documents herewith inclosed, and this communication, may be considered for the use of both houses.

WILLIAM WOODBRIDGE.

January 27, 1841

From *Journal of the Senate*, pp. 107-111

To the Senate and House of Representatives:

Gentlemen—It is my duty to lay before you, certain resolves which have been passed by the general assembly of the state of Connecticut, during the last year, concerning the public domain; and which have been transmitted to me, with the request that I should communicate them to you. The sentiments which I entertain on this matter of so transcendent importance to the prosperity of the west, are to be found embodied in a report made in the senate of this state, in 1838, (*Senate document number 32, page 421;*) further illustrated in my communications to both houses, last year, upon the occasion of my transmission to them of the resolutions of Vermont and Kentucky, on the same subject. To these documents, I ask leave, respectfully to refer.

It is impossible to contemplate the condition of our young and embarrassed state, in the relations which she bears to this momentous subject, except with reflections of the most painful character.

No independent community ever existed, it is believed, which did not claim the right of control over such waste and unappropriated wild lands as were within its limits. The older states of this Union certainly claimed, upon that principle, all proprietary interest, in such lands, within their limits respectively; they *still* claim it, and their claim is sanctioned. We were promised that we should be admitted into the Union, on the basis of *equal* right, "on the same footing, in all respects whatsoever, with the original states."

It is not necessary to inquire how far such a promise may have proved fallacious. But if the wild and unappropriated lands within our limits, which the general government *did not think proper to sell*, before we emerged from a condition of colonial dependence upon that government, were deemed too valuable a boon, like other of its rights, to be parted with by it; yet, it may be asked with still more emphatic meaning, whether we remained shorn, also, of the sovereign right of taxation? What state, or nation on earth, having sovereign powers, ever failed to

exercise that right, in its discretion, over every species of property which was within its limits? None can doubt but that such a power is inherent in every state of this Union, in the most ample and plenary degree, excepting only as regards so much of it as is expressly granted by the people, or by the states, *exclusively* to the general government, and for the purpose of ascertaining what grants of power have been made to that general government, it will be conceded, I think, that we must resort *alone* to the constitution of the United States. It cannot be admitted, I think, that that general government is competent to enlarge and amplify its own powers, or to diminish the inherent and constitutional powers of the states, by holding out allurements to some, or *driving bargains* with others. When the two houses of congress had passed a bill for erecting turnpike gates, and *collecting tolls* on the Cumberland road, with the express assent of the states, within whose limits, respectively, such toll was proposed to be collected, (and it was to be such *only* as should be sufficient to keep the road in repair,) president Monroe, vetoed the bill. "I am of opinion," he says, "that congress do not possess this power, that the states individually, cannot grant it, for although they may assent to the appropriation of money within their limits, for such purposes, they can grant no power of jurisdiction or sovereignty by special compacts with the United States. This power can be granted, only by an amendment to the constitution, and in the mode prescribed by it." Who, among the wise statesmen of the United States, have ever controverted, or doubted the force of that reasoning? I apprehend that it is to the constitution of the United States alone, that we are to look, for the powers granted to the general government, or for any restriction of the inherent and sovereign powers of the individual states. It is the paramount law; it absorbs and abrogates all *compacts previously* made, which conflict with its provisions, and it avoids and renders null, all subsequent ones, which purport, either to increase its own, or lessen the powers of the states. And, where, in that hallowed instrument, is to be found the clause, which takes from a state its right of eminent domain? its power, *inseparable from its sovereignty*, of taxing the lands that are within its limits, for the beneficent purposes of government?

Our intelligent and enterprising population of two hundred and eleven thousand and one, though found in groups around many a beautiful spot of our peninsula, is yet widely scattered—dotting with its villages and settlements, here and there, the general surface. But those villages and settlements are widely separated from each other, and from their common market, by eighteen or nineteen millions of acres of the public domain—a domain which lies useless, for all the beneficial purposes of society. For this population, so situated, good roads, canals,

and all the modes of transportation and inter-communication, which are so universally in operation in other parts of the Union, are considered *indispensable*. To attain them, our industrious and high-spirited people, have already taxed themselves to the utmost limit of their ability. The annual *highway* tax alone, assessed in a county containing one hundred and ninety-four thousand four hundred and eighty acres subject to taxation, for the year 1839, as appears by the auditor general's report to you, averaged five dollars and sixty cents for every eighty acre lot! This is far above their ability to pay—and yet the object is not attained. Our peninsula exhibits no leading, well constructed and creditable highways; and only inconsiderable, and comparatively unproductive sections of our canals and railroads, are completed. To our brothers of the older, of the eastern and southern states, the reason for such result may not be apparent; to us, it is too painfully clear. Of the twenty-three or twenty-four millions of acres, of which the peninsula probably consists, some eighteen or nineteen millions of acres, continue uncultivated, unappropriated, public domain; and this, it is claimed, the state has no right to tax. The act of congress, which relinquished to Ohio five hundred thousand acres of land, for purposes of internal improvement generally, gave also to that state, every alternate section in a strip of ten miles wide, along the projected canal from Dayton to Lake Erie, for the purpose of constructing that canal. But the same act also contained a clause raising the minimum price of the residue, from one dollar and twenty-five cents, to two dollars and fifty cents per acre; thus establishing the proposition by its own concession, that the construction of the canal *doubled the value* of the land upon its borders. And it is unquestionably true, that every day's work upon the public roads, as well as every tree of the forest that is felled by the industrious farmer, in reclaiming his farm, and in the embellishment of the country, imparts an increased value to the public domain, over which such road penetrates, or near which such improvement may be, which it *never* otherwise could attain. Why, then, should not that public domain, even if the state could urge *no* other claim to control or to tax it, on the exclusive ground of mere equity, be made to contribute, in proper proportion, for the making of such roads, and other internal improvements?

The policy pursued by the general government in this regard, towards Ohio, and all the states of the old north-western territory, with the only exception of Michigan, was dictated by clear justice and equity, even if *no* question could have been made as to the power of those states, as matter of *mere* right, by the sovereign right of taxation or otherwise, to compel that just and proportionate contribution. But it is especially painful and humiliating to reflect, that while some million and one half

of acres of choice land, have thus accrued to Ohio, (exclusive of the school sections, which have alike over all parts of the public domain, been applied to purposes of education, which, since the ordinance of the old congress of 1785, have been holden out as a powerful allurements to purchasers, and which indeed have always constituted *essentially, a part of the consideration* of every individual contract of sale;) and a proportionate quantity no doubt, awarding to every other of the new states which have been carved out of the old northwest territory—not an acre has been assigned to Michigan for purposes of internal improvement; and, exclusive of section sixteen, less than 96,000 acres have been assigned to us for all public purposes whatever! If this invidious distinction could be attributed to deliberate design, to a settled rule of policy, the consideration of it would be full of pain and deep humiliation. But it cannot be so; among all the nations of the earth, there can be none, whose councils, generally, are more preeminently distinguished for their love of justice, and a high-toned and liberal magnanimity, than those of the congress of the United States. I cannot, therefore, refrain from expressing my persuasion, that justice will yet be done to us, that no such invidious distinction as I have alluded to, will long continue to mark the statute book of the nation. And that when our claims upon its justice are fully set forth and again urged upon its consideration, the congress of the United States will first set this new, interesting, but feeble state, upon the footing of equality, at least with other, its western states, and will finally accord to us all that is proper and that will be necessary to consummate those internal improvements, which, without materially diminishing the treasures of the nation, will render Michigan what she ought to be, rich, prosperous and happy.

I commit the whole subject to your deliberate consideration, gentlemen, and pray that this communication may be considered as for the use of both houses.

WILLIAM WOODBRIDGE.

January 29, 1841

From *Journal of the Senate*, pp. 115-116

To the Senate and House of Representatives:

Gentlemen—I hasten to lay before you, for the use of both houses, the accompanying memorial, resolution and digested statement. The people, cautious and jealous as to whatever may concern their inalienable and reserved privileges, have thrown a constitutional defence around their “right, freely to assemble together, to consult for the

common good; to instruct their representatives, and to petition the legislature for redress of grievances." The deliberate representations of the populous, enterprising and powerful county of Calhoun, are, at all times, entitled to the highest respect. The matter that county presses upon your attention, is of imposing consequence. The statements of Mr. Hurd, whose high character, of itself, furnishes a guaranty of the sincerity with which his views have been collated and drawn up, cannot fail to arrest your serious consideration; while the gratuitous offer of the county, to underwrite for the productiveness of the public works alluded to, furnishes the strongest presumptive evidence of the correctness of their calculations, and the soundness of their conclusions.

I commend the whole matter to your prudence and wisdom, not doubting but that it will receive that grave consideration which the high importance of the subject seems to demand.

WILLIAM WOODBRIDGE.

January 30, 1841

From *Journal of the Senate*, pp. 125-126

To the President of the Senate:

Sir—I have the honor to state, that during my temporary absence, there was deposited at my house, a late and very beautiful map of the state of Alabama. It came without any letter of advice, but directed to me in my official capacity, and I presume, therefore, that it was intended as an act of courtesy, on the part of that state, towards the state of Michigan. I deem it proper to place it subject to the disposal of the legislature, and would respectfully recommend, that when the map of Michigan, now in progress, shall have been completed, a copy of it be sent to that state.

I have received, during the last season, three copies of the journal of the house of representatives, in congress assembled; and also, three copies of the second volume, fourth series, of the documentary history of the American revolution; one of each of which several copies, purports to be for the use of each house of the legislature, and one for the use of the executive department.

I have also received from several of the states of the Union, copies of its legislative acts; and from some, sets of reports of the judicial decisions of its high judicial tribunals. Very great benefit, I think, may be anticipated from such interchange of courtesy and of knowledge. I would respectfully recommend that these valuable books be deposited in the state library, but without being subject, as other books in that library, to be taken out, except upon the order of either house of the

legislature, or of the governor, and further, that accurate lists be made, not only of those received this last year, but of those also, which may have been received in other years, so far as they can now be ascertained; in order that this most useful courtesy may be duly reciprocated, especially in relation to the reports of the judicial decisions in our own state, as from time to time, such reports may be published.

I respectfully request that you be pleased to communicate the substance of the foregoing remarks to the Senate; and, also, that you lay before that body, certain "joint resolutions," relative to a proposed amendment of the constitution of the United States, which have been recently passed by the general assembly of Indiana, and which I herewith transmit for the use of both houses.

And have the honor to remain, sir,

Very respectfully, your obedient servant,

WILLIAM WOODBRIDGE.

February 1, 1841

From *Journal of the Senate*, pp. 129-130

To the Senate and House of Representatives:

The inclosed communication from the state treasurer, was put into my hands today, accompanied by a request in writing, that I should present it to you, and I hasten to perform the duty.

A stern and rigid construction of the powers and duties of the treasurer, would perhaps inhibit that officer from receiving for taxes, any thing but gold or silver; but the utter impossibility of enforcing the payment of gold or silver, by our fellow citizens for taxes, is unhappily too manifestly apparent; and the effort to enforce it, would be as vain as the attempt would certainly be cruel to the people, and destructive to the best interests of the state.

In such an exigency, it has become the duty of the treasurer to lay the matter before you, and to take your direction as to the course he shall pursue.

Though I have the most entire reliance upon the perfect solvency of the institutions he alludes to, and most fully believe that not an individual creditor will ever suffer in consequence of any excess of their responsibilities over their assets, yet it concerns the principle of self-protection, and the honor of the treasurer, that he should guard against the consequences of even an ephemeral depreciation of the only currency we have in the land. The honor of the state, also, is concerned. I think, in protecting its meritorious officers from loss, either in property or reputation, by reason of those fluctuations in the value of the

currency, so incident to the times we live in. That protection will be sufficiently found, in any positive rule you may be pleased to prescribe for him.

WILLIAM WOODBRIDGE.

February 1, 1841

From *Journal of the Senate*, pp. 130-131

To the Senate and House of Representatives:

Gentlemen—I present to you, the memorial and application of the “New York historical society,” which, with the letter which accompanied it, I herewith transmit.

That society, though in its origin, a local and state corporation merely, has long since acquired the character of a most useful national institute. Influenced by the noble spirit which has so long impelled it, it is now seeking to enlarge the sphere of its labors and its usefulness.

The application commends itself very strongly, I think, to your favor; and I avail myself of the occasion, to express to you my congratulations, that amidst all the agitations of the times, and the warring of political interests, and the effervescence of party feeling, the cause of science is not forgotten, nor her voice unheard in the land.

I commit the memorial to your consideration, and respectfully recommend the application contained in it, be granted.

WILLIAM WOODBRIDGE.

February 6, 1841

From *Documents Accompanying the Journal of the House of Representatives*, pp. 99-103

To the Senate and House of Representatives:

Gentlemen—I received the communication herewith submitted to you, together with the document which accompanies it, soon after its date. It was withdrawn subsequently, that a copy might be made of the document upon which it seems based.

The slight examination I have been enabled to make of the papers, has very deeply impressed me with the conviction of the grave and important character of the considerations which are involved in the subject. I have no hesitancy in expressing it as my decided opinion, that no banking institution ought ever to be established, unless ample security be furnished to secure the prompt and continued payment of its outstanding circulation in the precious metals. Whether this security

should be found, *exclusively*, in the precautions taken by the legislature creating it, or in those *conjointly*, with such as may consist in the action of the general government, is a question about which differences of opinion may exist. But I apprehend that the public good, (the advancement of which, alone, can at any time sanction their creation,) peremptorily requires, that such ample security should exist *somewhere*. An *extraordinary* run upon a bank, or other sudden exigency, may render it proper that it should be allowed forty or sixty days, within which to replenish its vaults, and avoid a forfeiture of its charter. But such emergencies being provided for, the institution of no bank, I think, was ever warranted, by a wise and prudent policy, without the guaranty to which I allude.

But evils are *upon* us, not of our own creation, and still more alarming ones impend over us. The character of the existing currency, and of the *times*, is peculiar and anomalous! Whether these may have been superinduced by a too broad and improvident expansion throughout the continent, of bank paper and accommodations; whether some extraordinary concurrence of circumstances, has occasioned the withdrawal of too great a proportion of specie from the ordinary channels of commerce; whether, by the subversion of any other of the laws of trade, or whether, by a combination of operating causes, it is not, perhaps, material *now* to inquire. The question now rather seems to be, how can we *best* diminish the evils which *actually* press upon us, and the more appalling ones that threaten us?

Should the banks throughout the western country—I mean those of Ohio, western Pennsylvania, western Virginia, Kentucky, Indiana and Illinois—generally resume and continue specie payments, (a measure heretofore deemed probable,) a resumption and continuance of specie payments, on the part of that small portion of banks which have hitherto sustained themselves in Michigan, seems to me peremptorily called for. For *our* banks to be holden up conspicuously to view, as the *only* banks, in the great west, which *do not* resume and continue specie payments, would impair the honor of the state, and injure its credit both abroad and at home. And although their bills might still subserve, more or less, the purpose of getting our surplus products to market, nevertheless, it seems to me, that they *must*, in such event, very greatly depreciate in value.

On the other hand, if, in such contingency, our banks should resume and continue specie payments, although the measure would tend to preserve the honor of the state, yet I cannot rescue myself from the conviction, that this very measure would tend, by a process most fearfully rapid, to withdraw, for all purposes of business, all which now constitutes the circulation of the country.

Immense sums of money are due to our banks. How has this happened? Have our people become improvident? Like their own government, have they too, lived beyond their ordinary income? I am not willing to concede this; I confidently believe it is *not* so. But, suddenly, the great avenues of business over the continent were found blocked up; uncertainty, derangement and disorder pervaded all its departments! The general currency, the vital fluid of trade, was first poisoned, and that which remained unimpaired, in a great measure, drawn off, especially from Michigan. And now, when labor no longer commands its value with us, and the products of industry find but few purchasers, and those at unsteady and ruinous prices, with what justice can it be said of the people of Michigan, that the evils they suffer, are brought upon them by their own improvidence or extravagance? By such a crisis our people were overtaken more than a year ago. The violence of the shock that crisis was calculated to produce, was greatly lessened by the great increase of the currency which our banks were happily enabled to throw into circulation. This they were enabled to do, in consequence of the legislation of last year. And by the best estimate I have been enabled to make, founded principally upon computations of men of unquestioned judgment and close observation, more than a million and a half of individual debt, due in the Atlantic cities, have been paid off by our citizens, through the medium of that increase of currency, while no *new* debts of moment have been incurred there. Another year of such industry, such economy, such aid, and such harvests, would leave the people of Michigan, in a condition as free from individual embarrassment, probably, as secure and as enviable, as the people of the western states. But unless the relative position of the country and of the banks should be much changed, I am not able to discover in what manner any increase of a safe currency can be effected; nor even how the greater part of that we have, can be retained among us. I have not been willing to harbor any fears but that, for the payment of their actually outstanding notes, the banks had, and still have, sufficient resources. But the vast sums due them, they do not, and *cannot* now, collect in specie; the attempt, even, to coerce its payment, would bring ruin upon thousands. The precious metals do not *grow* in the vaults of the banks; and, resumption being now by law required, as fast as their notes in circulation are brought in, and paid in specie, those notes, so taken up and paid must find their way forthwith to the fire, or to their vaults, not to see the light again! while the specie, (or that which is in truth more valuable, their eastern funds,) which they pay out, finds its way rapidly, either to the vaults of the banks of the neighboring states; or, for the greater part, into the Atlantic cities, there to cancel, as far as may be, the unpaid balances of individual debt, still remaining unpaid

there. How then is it possible to suppose that our banks can any further extend their accommodations? and how unreasonable to suppose, that they can issue any more bank paper to take the place of that which may be thus withdrawn? But it seems now intimated to us, and with too strong evidence of the truth of the intimation, that the banks of the west, generally, will *not* resume, and *permanently continue*, their specie payments, as had been fondly anticipated. If this be so, the fact cannot fail to aggravate the distress to which this condition of things, must give birth; it casts over the prospect, a still deeper gloom. And what then, in these circumstances, is to prevent the utter exhaustion of all the good currency from the state? an exhaustion, which can hardly prove less fatal to the interests of agriculture and of commerce, than even the liquidation of the affairs, and the winding up of all the business, of all the banks of the state, would be?

Gentlemen, I need not ask you, what then would be the condition of your revenue for the support of the government? You would *have* none? I need not ask, what then would become of the surplus products of this fair land? It would *perish* in the fields, or in the granaries of your farmers. I need not ask either what would come of the *industry* of the country? It would sicken, and die!

Is it not manifest, then, that something in this exigency, must be done for the country, before you separate?

With the course of thought, then, and the tone of feeling these grave considerations can hardly fail to produce, I respectfully ask, that you review the suggestions, (*definite propositions* they perhaps cannot be said to be,) that are contained in the documents herewith submitted. I am not dogmatist enough to pretend, that there can exist no other alternatives than those holden out in these papers. Your experience, gentlemen, and sagacity and love of country, may enable you to devise others, perhaps, which would be better. I can urge, in support of my own opinions, in matters of this nature, no peculiar knowledge in that branch of political economy which relates to the currency of the country, and no skill in the laws of commerce. Nevertheless, I think I discover in the last of the plans suggested, that one, which more, perhaps, than any that has occurred, would tend to the benefit of the country, provided its details were so settled as to render the state entirely secure, as regards the state bonds proposed to be advanced. In the event of the adoption of the principle of either of the plans suggested, however, a close and searching examination ought to be made into *all the affairs of the bank*, and, in making such examination, the condition and character of the debts due the institution, with a view to the certainty of their convertibility, would not escape the close attention of such committee as may be charged with the examination. Whether the state should become

the holder of shares in the institution or not, it will, in any event, have a deep interest in the character and success of its operations, and in the adequacy, at all times, of its assets.

The adoption of a plan, founded upon the principle of either of the three propositions, would have the effect of introducing within the state a large amount of foreign capital, which, by increasing greatly an active circulating currency, would develop and render available the resources of the state, by stimulating its industry, and taking its products to a market, it would be equivalent to the *creation, almost*, of its value in *surplus production*, since its direct tendency would be both to increase, actually, the products of labor, and yet more manifestly to save, by rendering convertible, that which would in any event exist.

Of the principle contained in the first of the plans proposed, I cannot speak favorably. I have uniformly believed, that the administrators of a government, like those of the states of this Union ought to have nothing to do with the detailed operations of banking institutions. But it is not necessary nor proper that I should obtrude upon you any remarks on that subject now.

The general subject presented for consideration, may involve in it the question of a temporary suspension of specie payments, until a sufficient time shall have elapsed for you to mature and fully establish such plan as you may deem it proper for you, conjointly with the bank, to adopt. In the event that the banks of the *west* generally, should not resume, it may be necessary, for the best interests of our state, that a similar policy, on our part, be also, in self-defence, adopted.

Fearful that I have already extended these remarks further than propriety might seem to warrant, I respectfully commit the whole subject to you; and with the recommendation, that if adequate security can be given to guaranty the state against all ultimate pecuniary loss, an arrangement be entered into in accordance with the principles contained in the second or third of the plans proposed.

I further respectfully solicit, that the documents and this communication, be considered as for the use of both houses.

WILLIAM WOODBRIDGE.

February 6, 1841

From *Journal of the Senate*, p. 158

To the Senate and House of Representatives:

Gentlemen—I have the honor to lay before you, for the use of both houses, a certain report and joint resolutions of the general assembly of Alabama, recently received by me; and in pursuance of the request

therein contained, I submit them to your consideration. They relate to the same difficult and deeply interesting subject which has been so elaborately discussed in the late intercommunications which have been had between the authorities of the states of Virginia and New York, concerning fugitives charged with the seduction, or taking away of slaves.

WILLIAM WOODBRIDGE.

February 13, 1841

From *Journal of the Senate*, pp. 512-515

To the Senate:

I hereby nominate Zephaniah Platt, Esq., of Jacksonburg, in the county of Jackson, and state of Michigan, to be attorney general of the state of Michigan; and to hold said office for and during the term of two years, to commence from and after the seventeenth day of April, A. D. one thousand eight hundred and forty-one.

As the above nomination involves in its consideration a question touching the proper construction of the constitution, I hold it to be proper, respectfully to present to the Senate, a view of certain facts and constitutional provisions, upon which I rest the opinion, to which I have arrived. A just deference for the collective wisdom of the Senate, would have admonished me not to have acted finally upon my own individual opinion in such a matter; and, indeed, not to have formed any definite opinion on the subject, until the views of your body should have been first made known to me. But I see not how I can avoid it, as all preliminary and initiatory measures, in respect to appointments of this character, must, under the constitution, originate with the executive.

It will be observed by the Senate, that in the third section of the seventh article of the constitution, the *term* for which the attorney general shall be appointed, is expressly limited to two years.

In the eleventh section of the twelfth article, it is provided, "that when a vacancy shall happen, occasioned by the *death, resignation or removal* from office, of any person holding office under this state, the successor thereto, shall hold his office for the period which his predecessor had to serve, and no longer," &c.

On the 18th July, 1836, Daniel LeRoy, Esq., (the first attorney general appointed under the state government,) was nominated and appointed to the office in question, as will appear by the executive journal of the Senate, for 1836, pages 17-19. His term of office would, then, by force of the section of the constitution I have quoted, have expired, by lapse of time, on the 18th July, 1838. But his appointment seems to have been vacated, (probably by resignation,) anterior to that time;

for, by the executive journal of the Senate, (*see executive journal, for 1837, pages 53-54,*) it appears that Peter Morey, Esq., was, on the 18th of March, 1837, nominated, and on the 21st of the same month confirmed, as attorney general. If, prior to this time, the office were vacated by the *resignation* of the previous incumbent, (Daniel LeRoy, Esq.,) then, according to the plain reading of the 11th section of the 12th article above quoted, Peter Morey, Esq., would have holden the office, only for the unexpired residue of the term for which his predecessor was appointed, viz: until the 18th July, 1838. That such was the opinion of the executive, for the time being, is, I think, inferable from the fact, that on the 18th January, 1838, Mr. Morey appears to have been nominated to the Senate for reappointment, (*see executive journal of the Senate for 1838, page 4.*) On the 22d of the same month of January, 1838, the Senate purports to have rejected that nomination, (see page 8,) and no further action seems to have been had on the subject of the office, during that session; nor does it appear that any appointment was made during the recess. But the regular term was suffered to expire, by lapse of time, on the 18th of the succeeding July.

On the 15th March, 1839, Mr. Morey, who would seem to have *holden over* the said office, from the 18th of the July previous, was again nominated to the Senate, (*see executive journal for 1839, page 561,*) and on the 17th April, 1839, that nomination was confirmed. (*See executive journal for 1839, pages 564-5.*)

The correctness of this statement of facts being assumed, the question very plainly presents itself, *when* shall the appointment of the future incumbent be deemed to terminate? Shall it be considered to be for the unexpired residue of a term supposed to have commenced from the 18th of July, 1840, and to terminate at the end of two years from that time, or must the term be considered as commencing from the 17th of April next? I am inclined to the belief, that in defining the term of two years, during which so many of the principal officers in the executive department of the government, should hold their appointments, it was intended, that at certain fixed periods in the order of time, all those offices should simultaneously become vacant. The scope of the 11th section of the 12th article, gives color to the supposition. It may have been thought, perhaps, that such periodical termination of all official power, might tend to prevent the perpetration of abuses, and by imposing upon a new administration, the duty of making new appointments, in all those principal offices, (whose incumbents will generally give tone and character to any executive administration,) great facilities would exist, for giving effect to any change of policy of the state, which its people may desire or expect. But it is both unwise and unsafe, to deviate from the precise and literal terms of the constitution, in any case not of imperious neces-

sity. And I am not satisfied, that it would be competent to consider that portion of time which intervened between the 18th July, 1838, and the 17th of April; 1839, as a portion of the term of office, to which, on the last named day, Mr. Morey was appointed; for whether during that portion of time *he held over*, or was acting under an executive appointment made in the recess, *it was not* the case of a vacancy occasioned by *death, resignation or removal from office*. I have deemed it safer, therefore, but with entire deference to what may be the opinion of the Senate, to consider the appointment made on the 17th of April, 1839, as the commencement of a new constitutional term of two years, and that by consequence, no vacancy, by lapse of time, will have occurred until the 17th of April next. If the Senate should be of a different opinion, it will be with great satisfaction that, so far as practicable, I shall, on my part, conform to it.

WILLIAM WOODBRIDGE.

February 18, 1841

From *Journal of the Senate*, p. 200

To the Senate:

I ask leave to state to the Senate, that the term of office of Edwin S. Lathrop, Esq., commissioner to superintend the construction of the state prison, continues "until his successor is appointed;" although the law constituting the office, manifestly intends that a new appointment be made at the expiration of a year from the time of his first appointment; having the most entire confidence in the capacity, zeal and fidelity, of the present incumbent, I should have felt it to be my duty to have submitted his name again to the Senate for reappointment, but that appropriation for continuing the public works upon the state prison, seems about exhausted, and being ignorant of the pleasure of the legislature, as to the continuing of the construction of those important works, and withal, being ignorant of the "ways and means," which the legislature may have within its control, for such purpose, I have deemed it improper for me to do so at present; and I respectfully call the attention of the Senate to the fact, that the salary of the present incumbent will continue, indefinitely, although there should be nothing for him to do, and no moneys in his control to expend on the works, unless the present law on that subject, should be changed. If, therefore, it should not be the pleasure of the legislature to cause the construction of the public works in question, to be continued, then I respectfully recommend that the office of commissioner to superintend the construction of the state prison, be abolished.

WILLIAM WOODBRIDGE.

February 23, 1841

From *Journal of the Senate*, pp. 207-208

To the Senate and House of Representatives:

Gentlemen—Having received an authenticated copy of a certain resolution of the Senate of this state, passed on the 3d day of this instant month of February; and also, an authenticated copy of a certain preamble and resolutions of the House of Representatives of this state, each purporting that the undersigned, William Woodbridge, was, on the third day of February instant, duly elected senator, for the state of Michigan, to the congress of the United States, for the term of six years from and after the 3d day of March next, it seems due to the occasion, that I should formally express to both houses of the legislature, my acceptance of the appointment, which it has been their pleasure to confer upon me. Deeply impressed by a sense of the importance of the high trust thus reposed in me, conscious of my inability to execute it in a manner the most useful to this state, and to the nation, I shall enter upon the duties it enjoins, with a solicitude which I cannot express; a solicitude immeasurably increased by this gratuitous evidence of the favor and continued confidence of my fellow citizens. I accept the appointment you have conferred upon me, gentlemen, and in a spirit of humility, but with firmness, I hope, I will endeavor to perform my duty.

The obligations imposed upon me by this new trust, being incompatible with the duties incident to the office, which the kindness and the favorable opinion of my fellow citizens, had previously conferred upon me, it is proper that I should respectfully tender to you my resignation of that office. This I now do myself the honor, respectfully to do.

WILLIAM WOODBRIDGE.

April 10, 1841

From *Journal of the House of Representatives*, p. 668

To the House of Representatives:

The melancholy tidings of the decease of William Henry Harrison, late president of the United States, having reached this department, in a manner which leaves no doubt as to the correctness thereof, I feel it to be a duty incumbent upon me, officially to announce to your honorable body the solemn event.

He died at the president's house in Washington, on the 4th of April, instant, expressing in the last utterance of his lips, "a fervent desire for the constitution, and the preservation of its true principles."

I would respectfully recommend that such an expression be had on

the part of the House, in view of this afflictive dispensation of Divine Providence towards us, as a nation, as shall seem becoming and due to the memory of one to whom our country and the world owe so many obligations.

J. WRIGHT GORDON.

April 10, 1841

From *Journal of the Senate*, pp. 462-3

To the Senate:

I hasten to lay before you, for the use of both houses, the accompanying copies of communications which have just been received by this department, from the auditor general and the president of the bank of Michigan, conveying the important information that the drafts, drawn by the auditor general upon the United States bank of Pennsylvania, against the April instalment of the five million loan, have been protested for nonpayment.

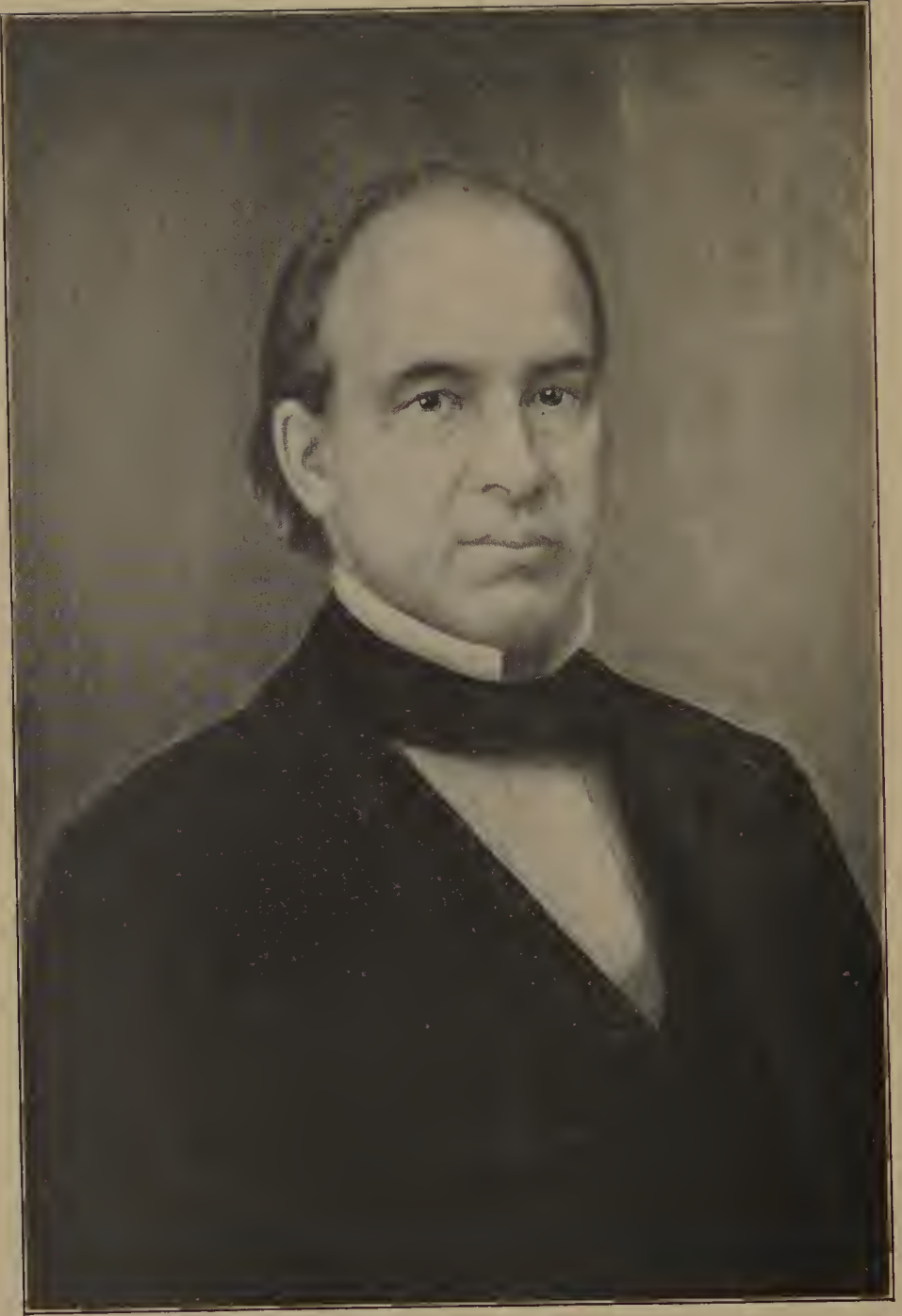
The disastrous effects which must inevitably result, not only to the credit of the state, but also to a large and respectable class of our citizens, unless some measure shall be taken to provide for the deficiency thus likely to be produced in the public funds, cannot but be obvious. From the official communication of the president of the bank of Michigan, it will be seen that the bank of the United States offered to pay in its own notes, to the agent of the bank of Michigan, then in Philadelphia. What may be the value in the money market, of those notes, I am unable to state, though I am credibly informed that they are at a discount of from fifteen to twenty per cent, in New York.

From the want of more particular information in relation to the present situation of the bank of the United States, I can only recommend that the state treasurer, or some other suitable person, should be authorized by the legislature, to proceed immediately to Philadelphia, as the agent of the state, with such powers and instructions as it shall be their pleasure to give in the premises.

I have also caused a statement of the liabilities of the state for the ensuing year, on account of interest upon loans, to be made out by the auditor general, a copy of which, is herewith transmitted for the convenience of the legislature.

J. WRIGHT GORDON.

GOVERNOR JOHN S. BARRY



JOHN S. BARRY

BIOGRAPHICAL SKETCH

JOHNS BARRY, who was governor of Michigan for three terms, was born at Amherst, New Hampshire, Jan. 29, 1802. His parents, John and Ellen (Stewart) Barry, removed early to Rockingham, Vermont, where he remained until he became of age, working on his father's farm and acquiring through native diligence a thorough common school education. He married Mary Kidder, of Grafton, Vermont, and later (1824) emigrated to Georgia, settling in the city of Atlanta, where he had charge of an academy for two years, meanwhile studying law, and afterwards practicing law in that state. While in Georgia he was for some time a member of the Governor's staff. In 1831 he removed to Michigan and settled at White Pigeon, St. Joseph County, engaging in mercantile pursuits, in which he became eminently successful. In 1834 he removed to Constantine.

Mr. Barry's first public office of consequence in Michigan was that of member of the Constitutional Convention which assembled in 1835 and framed the first state constitution of Michigan. The prominent part which he took in the proceedings of this body showed him to his fellow citizens to be a man of far more than ordinary ability. In 1835 he was elected State Senator, which office he held until 1838, and was again elected in 1841. So favorably were his associates impressed with his abilities that he received the nomination for governor of the State in 1841, and was elected. He was re-elected and served as governor until 1845, the constitution forbidding more than two consecutive terms, but he was elected again in 1849. He was governor of the State during a period of great financial stress and it was due largely to his wisdom and sound judgment that Michigan's finances were placed upon a firm basis.

Mr. Barry was always a Democrat of the old Jeffersonian school, and his opinions were usually extreme. His last public service was as a member of the Democratic Presidential Convention held in Chicago in 1864. With the ascendancy of the Republican party he retired to private life and continued his mercantile business at Constantine. He died Jan. 14, 1870. His wife had died in the preceding year. They left no children.

Mr. Barry is acknowledged to have been one of the most efficient and popular governors the State of Michigan has had. It is said of him: "He was a man of incorruptible integrity. His opinions, which he reached by the most thorough investigation, he held tenaciously. His

strong convictions and outspoken honesty made it impossible for him to take an undefined position where a principle was involved. His attachments and prejudices were strong, yet he was never accused of favoritism in his administration of public affairs. As a public speaker he was not remarkable. Solidity rather than brilliance characterized his oratory, which is described as argumentative and instructive, but cold, hard, and entirely wanting in rhetorical ornament. He was never eloquent, seldom humorous or sarcastic. In manner he was rather awkward. Although his educational advantages were limited, he was a lifelong student. He mastered both ancient and modern languages and acquired a thorough knowledge of history. No man owed less to political intrigue as a means of gaining position. He was a true statesman and gained public esteem by his solid worth."

MESSAGES

1842

January 3, 1842

From *Journal of the House of Representatives*, pp. 8-11

Fellow Citizens of the Senate and House of Representatives:

Having now taken, in your presence, the oath prescribed by the constitution, and accepted the high obligations and responsibilities imposed, I enter upon their discharge with unaffected diffidence, and with an anxious desire to serve the people to the utmost of my ability. It will be my duty to communicate to you, without delay, the situation of the state: but a custom, coeval with the state government, requires a brief exposition of my sentiments at this time. I would not, willingly, omit any of the proprieties of the occasion, but shall trespass on your attention for a few moments only.

It is our peculiar privilege to live under institutions which secure, in harmonious union, universal freedom and equality of rights, and the undisputed supremacy of wise and beneficent laws. In the old world, an endless struggle is maintained between the liberty of the people and the sovereignty of the government. Here, government is strong only in the affections of the people, whose sovereign will, periodically expressed, is the legitimate source of its authority. Hence, the ready obedience which its lawful demands ever receive from all good citizens. Hence, the general unanimity with which every rank, party and sect, rally to the defence of the country in the hour of trial and danger. Hence, amidst all our political and religious dissensions, the foundations of society and government are never shaken or endangered. Religious zeal, which, in other times, has stifled truth or persecuted error by the faggot and the rack, is here displayed only in the conflicts of reason and argument, or in emulous labors of beneficence and charity. And political ambition, which, in other lands, points the assassin's dagger at the breast of the monarch, or quells the murmurs of a starving people by the trampling of horsemen or the roar of cannon, is here exhibited only in rival efforts to promote the common weal. All unite to support the government of the people, because all enjoy its equal and unspeakable benefits. Let us seek then to maintain our admirable institutions in their republican simplicity and purity, in the patriot's hope and prayer that they may be perpetual.

In nothing gentlemen, is the superiority of republican institutions more manifest, than in the ease and simplicity with which they are administered. Under monarchical and aristocratic systems which prevail in other countries, the skill of the most experienced and sagacious

statesman is exhausted to preserve the complicated machinery of government from disorder. No progress is expected, and the sole hope is to save it from ruin. Vast sums are lavished—great armies maintained—all the splendors and allurements of a magnificent court displayed at infinite cost, and yet the first public calamity spreads confusion and alarm throughout the empire. The cumbrous and artificial fabric is ever ready to break into pieces under its own weight. But our institutions, founded on the firm basis of nature and equal rights, and supported by the mutual interests of the people, are strong and prosperous in the simple wisdom of their principles, without the dangerous aids and cunning contrivances of subtle politicians. True republicans are wise statesmen. Plain men of sound heads and honest hearts, untrained in the arts of politics, are found adequate to the highest and most responsible duties of government. A strict adherence to the great principles of democracy, is better than a thousand schemes of political craft. The true aim, indeed, of a republican magistrate is, to refrain from the exercise of power not delegated; to abstain from all interference with the pursuits of the private citizen, and to give full scope to the inexhaustible energies of a free people. Let there be certainty in the laws, economy in expenditures, and a faithful administration of government, and the people will take care of themselves. The main design of a republican government, is to protect the citizen in the enjoyment of his liberty, and the property his own industry has acquired. The doubtful doctrines of political expediency, ever varying from the republican standard, for the sake of some temporary advantage, lead continually to the establishment of special privileges and corporate immunities, and to innumerable schemes tending to enrich or elevate the few at the expense of the many. Strict adherence to the fundamental principles of republican government, can alone secure, alike to all, the inestimable blessings of equal rights.

Our own state furnishes a striking example of the benign influences of republican institutions, while unfortunately the evil effects of a temporary departure from the genuine principles may also be gathered from her brief history. Six years have now elapsed since the people of Michigan assumed the rights and responsibilities of self-government. Difficulties, still fresh in your recollection, obstructed her admission into the Union, and she finally took her position among the states, only after a surrender of a valuable portion of her territory. Her subsequent growth has proceeded with a rapidity unknown in less favored countries, and scarcely equalled by any sister state; and if yet inferior to a majority in population and wealth, the time is fast approaching when she will be entitled to stand in the first rank. The intelligence and enterprise of her people, the salubrity of her climate, the fertility of her soil, and her

unrivaled position in the midst of navigable waters, washing her shores on every side, are sure guaranties of her future prosperity and greatness. The madness of speculation, which at one time pervaded the whole country, and which fell with full force upon Michigan, has long since subsided. Doubtful enterprises and hazardous schemes, in the hope of sudden wealth, which were encouraged by the spirit of that day, have given place to more solid and rational plans for the acquisition of property. The substantial improvement of the country, every where, begins already to exhibit the fruits of the change. The stern lessons which the people have learned in this regard, cannot fail to make a deep and abiding impression upon them, and above all, upon their government.

It cannot be concealed, that embarrassments of no ordinary magnitude oppress the finances of the state. The public debt is heavy, and the immediate demands upon the treasury are beyond its present ability to meet. Creditors at home, the justice of whose claims cannot be denied, are urgent for payment, and wait but with extreme impatience. Abroad, grave questions, involving the extent of our liabilities, and which, in their settlement, may deeply affect the character of our state, are earnestly presented for our decision. In the numerous and perplexing wants of a new country, the weight of taxation is already severely felt, and any addition might be borne with impatience.

But while we see and acknowledge the full force of these embarrassments, we should not allow ourselves to be dismayed. When we consider the almost boundless resources of Michigan, and recollect the invincible energies of her people, we are assured that any obstacle will, in time, be overcome. True patriotism, indeed, never despairs. The difficulties which environ our path, should serve only to quicken our zeal and to prompt us to greater exertion for the common good.

To you, gentlemen, the chosen representatives of the people, are committed important trusts, demanding the highest efforts of wisdom and patriotism. My best powers shall be devoted with unswerving fidelity to aid and co-operate with you in your arduous labors. Unmixed success cannot be hoped for in human affairs; but, under the blessings of Providence, I trust that after a brief period, you will be able to return to your constituents, bearing the proud consciousness of having done something to elevate the character of the state, and to advance the interests of the people.

JOHN S. BARRY.

January 4, 1842

From *Journal of the House of Representatives*, pp. 20-50

Fellow Citizens of the Senate and House of Representatives:

You are assembled by a wise provision of our constitution to perform important duties, which that instrument requires you to discharge. To you is committed, for the time, the care of our young and rising state. On you is devolved the paramount duty of devising such measures as will ensure her prosperity. Yet, while our organic law thus imposes on you such high duties and responsibilities, the same organic law in some degree, commingles the duties and responsibilities of the executive with those more emphatically assigned to you. Every bill and resolution, before it takes effect as law, is required to be presented to the executive for his approval; and the executive is also required, at every session, to communicate to you, by message, the condition of the state, and to recommend such measures as he may deem necessary for the public good. While, therefore our duties, to some extent, are common, and our responsibilities also common, the interests of our constituents will be best promoted by a cultivation of that spirit of harmony which should ever characterize the intercourse between the legislative and executive branches of the government.

During the past year, our free institutions have been preserved to us inviolate; general and almost universal health has prevailed; peace abroad has been maintained, and, at home, we have been preserved from domestic violence; our fields have produced rich harvests, and plenty and prosperity abound on every hand. For these and other manifold blessings, we are indebted to the mercies of Divine Providence, to whom we should not be forgetful continually to render thanks.

The universal education of all classes of our citizens is so necessary, and its propriety so generally conceded, that I need hardly urge upon you its importance. By reference to history we learn, and from observation we know, that, just in proportion as the masses have been enlightened, in the same proportion have their rights as men been protected. The rights of personal liberty and of personal security, were never conceded by lords to their vassals, until the latter, after ages of galling oppression and ignominious servitude, by degrees, obtained a hold on the fountain of knowledge.

The moral and political condition of a people depends, in the main, upon the degree of knowledge and amount of useful information diffused abroad among the mass. Within our own recollection, other republics have risen and fallen, and the scenes of intestine commotion which they have constantly exhibited, and which, sooner, or later, have caused their overthrow, resulted from a want of general education, and

the consequent destitution of virtue in their inhabitants, The democracy of learning, if I may be permitted to use the expression, is, then, essential to the permanency of a republican government, and we can transmit to the rising generation, the happy political freedom which we enjoy, only by granting them the benefits of education. They are committed to our keeping, and without our fostering care, will grow up in ignorance and vice.

The revenue for the support of common schools, not derived from taxation, consists, mainly, in the interest arising from the proceeds of the sale of school lands, and the rents of such portions of them as may have been leased. If a judicious and proper use be made of this revenue, it is probable that, at a period not very remote, if insufficient to educate all the youth of the state, it will at least contribute much towards that desirable object.

Above all others, the laws on the subject of common schools should be plain, simple, and easy to be understood. They should be as independent of all other enactments; as the nature of the case admits, and, to a proper understanding of them, it should not be necessary to refer to legislation on other subjects. Such, however, is not the present condition of our legislation on this important subject. The enactments are various and are scattered through many volumes, and it is with difficulty that their meaning can, in all cases, be ascertained. To obviate these objections, I respectfully recommend their entire revision. All the various enactments on the subject, should be condensed into one, and published in such convenient form as will insure a circulation, in every neighborhood and district in the state. The lights of experience, and a reference to common school systems of other states, may enable you to make such improvements as, by giving a new impulse to education, will result in general and permanent good. I am, however, induced to believe, that the main provisions of the system, as it now exists upon our statute books, should be retained, as far as you think the best interests of the public will permit. Innovations should not be permitted, but with abundant caution, and after the most careful examination. Servile adhesion to ancient precedents and long established customs, should not, however be permitted to take such entire possession of our minds, as thereby to induce us to reject the benefits resulting from an adoption of the improvements of the age. Among the alterations you may deem advisable to make, perhaps none is more worthy of your consideration, than the subject of taxation necessary for the support of the system. The right to impose taxes, is one of the highest prerogatives of sovereignty, and the delegation of that right should be made with the greatest caution. Complaints have been made, perhaps in some degree well founded, that, in the assessment and collection of taxes for the

erection and repair of school houses, great injustice has resulted from the unequal manner in which such taxes have been levied. If, after inquiring into the cause of such complaints, you find they really have foundation in truth, you will doubtless correct the evil, by interposing such legislation as the exigency of the case may require.

The office of superintendent of public instruction, is established by the constitution itself, and cannot be abolished by law, were it even deemed advisable. I cannot, however, refrain from calling your attention to the fact, that the duties of a fiscal character, by law imposed upon that officer, are in no wise consistent with the duties of a literary character, which it is more particularly his province to perform, and to which end the office itself was constituted. It is, indeed, but seldom we find one and the same individual competent to discharge, satisfactorily to himself even, duties so adverse, and which, to their proper performance, require order of talent and qualifications so opposite. While, then, you cannot, by legislation, abolish the office of superintendent of public instruction, it will be entirely competent for you to relieve the incumbent of that office from all duties of a fiscal character, which are now imposed upon him by law. As it is desirable to limit, so far as may be consistent with a due regard to public interest, the number of officers who are entitled to salaries for their services, it may be worthy of your consideration, in case you assign to another the fiscal duties of the superintendent, whether they may, with advantage and safety, be super-added to those of state treasurer or some other state officer.

If, however, you should be of opinion, that the short period allotted to your present session, will not give sufficient time and opportunity for the completion of so desirable an object, in a manner that may be satisfactory to yourselves and most beneficial to the public, then, perhaps, it may comport with your views to direct, by law, the superintendent of public instruction to prepare and submit such revision to you at your next annual meeting.

The annual report of the regents of the university of Michigan, will, doubtless, be transmitted to you by the superintendent of public instruction. The usefulness of that institution has, hitherto, been restricted to its branches. In them have been taught the elements of knowledge and science usually taught in high schools and academies in the eastern states of this Union. Next to common schools, the branches of the university are destined to be of the greatest importance to the people of the state. In the year 1840, the number of students was two hundred and forty-seven. During that year, seven branches were in operation, and the sum of \$10,188.37, was expended in the payment of salaries of teachers. The two preceding years, the sum of \$13,150.09 was expended for that purpose in the same number of branches. In

making these large and apparently enormous expenditures, the motives of the regents are above suspicion. They were, beyond all doubt, actuated by no other than motive of public good. It is, however, respectfully submitted to your consideration, whether the interests of education would not be more eminently promoted by some provision of law, having for its object the increase of the number of branches, if available funds for that purpose be at command, and the limitation of the amount to be appropriated to each. It is believed that a sum of from three to five hundred dollars, appropriated by the board, together with such sums as might be received for tuition, superadded to such other encouragement as would, of course, be voluntarily afforded at the places of location, would secure the services of persons well qualified to teach, and every way competent to take charge of the branches. If such be the case, of which there can be little doubt, then, with a much less expenditure in the aggregate, the number of branches might be greatly increased and the benefits of education more extensively diffused. I press the subject upon your attention with great earnestness, because I am of opinion, that the usefulness of the university will be incalculably greater to the people of the state through its branches, than through the mother institution itself. By means of its branches, the blessings of a high grade of education will be brought within the reach of nearly all the rising generation, while the number to be instructed in the university proper, must, comparatively speaking, be necessarily few. Keeping always in view, then, the object for which the fund was granted, and, in no degree departing from the intentions of the grantors, it is our duty to give such direction to the control of this important institution, as will result in the greatest good to our fellow citizens and best insure the extension of the cause of science.

By reference to the report of the regents for 1839, it will be seen that \$26,896.19, were expended in the construction of buildings that year, and the further sum of \$22,867.22, was expended for the same purpose the succeeding year. Thus, in 1839 and 1840, was expended the sum of \$49,764.41, in erecting buildings for the use of the university, and which were not then completed. The amount, if any, expended since, is unknown to me. These vast expenditures, for the construction of university buildings, as well as those for the support of branches, have probably been made mostly from the proceeds of a loan made in pursuance of "An act to authorize a loan, of a certain sum of money to the university of Michigan", approved April 6, 1838. This loan, and the consequent extravagant expenses incurred, were induced by the paper money mania which, with such blighting effects, has pervaded this otherwise happy land. No particular blame is to be attached to the regents; they but participated in the common delusion of their fellow citizens.

The large and commodious buildings, which have been constructed with so much expense, will doubtless, at some future period, be wanted for occupation and use; but the paucity of the university fund, and the present and prospective limitation of its availability, should have postponed their erection for many years. The whole expense incurred for cabinet and library, up to and including the year 1840, amounts to \$9,777.42. This expenditure, though seemingly large, was, if not indispensable to the prosperity of the institution, at least less objectionable than the expenses incurred in erecting such expensive buildings.

By a joint resolution relative to the university of Michigan, approved March 25, 1840, it is made the duty of the board of regents to report to you such alterations as they deem necessary to be made in the laws of the state relative to the university. The only report made in compliance with this resolution, may be found in the joint documents of the last session, and to which I respectfully invite your attention. In that report, the regents recommend such alteration in the law on that subject, as will give to them the entire trust and management of the funds, and, in all other respects, the absolute control of the institution, subject and responsible only to the legislature, to which body they wish to make all reports of their proceedings. I respectfully recommend this proposition to your serious and attentive consideration. The high character of the regents, and their experience, derived from long exercise of the functions of their office, give additional weight to their recommendation, and will, I am certain, ensure that attention from you, which the importance of the subject demands.

It is greatly to be desired, that the true extent and condition of the university fund be made known to the public, in order that its capacity for usefulness may be fully understood. The public have an intense anxiety to be informed of its ability to give assistance to education, as well by means of its branches already in operation, as by others desired in various portions of the state. Such a knowledge of the condition of the fund, is also indispensably necessary to such ulterior legislation as, in your wisdom, may be deemed expedient. I therefore respectfully recommend, that you give the subject in charge to some appropriate committee, accompanied with the instruction, that, after having made the inquiry and investigation, they report the result of their labors for the use of the public.

Among other duties enjoined upon you by the constitution of the state, is that of encouraging agricultural improvement. The framers of that instrument early foresaw, that the greater portion of our wealth must be derived from this branch of industry, and wisely provided that it should receive the fostering care of legislation. The great and paramount importance of the agricultural interest would, I doubt not, with-

out any such injunction, induce you to take it into favorable consideration. It is to the cultivation of the soil that our citizens are to look in the main, for prosperity and happiness; although other branches of industry can and will be pursued with profit and success. Water power is abundant and to be found in every section of the state, and wool can be produced with as little expense as in any other portion of the Union. The cotton of the south can be brought to us through the canals of all the adjoining states, with inconsiderable expense. Notwithstanding all these great and signal advantages in favor of manufactures, we must, at least for many years to come, depend, almost wholly, upon the products of agricultural labor with which, directly or indirectly, to supply all our wants. If the habits of our citizens be characterized by industry and economy, then, with the blessings of Providence, a competence is sure to crown their efforts. No soil was ever more prolific, or better rewarded the husbandman for his toils. The cheapness and facility with which our wild lands may be brought into cultivation, can hardly be conceived by those who are acquainted only with the heavy forests of the eastern states. A great portion of our territory requires little or no preparation for the plough. Wheat is the great staple of production, and no soil or climate was, perhaps, ever better adapted to its successful cultivation. I am aware that our present financial difficulties oppose an obstacle, at the present time, to the enactment of such liberal provisions, in regard to this subject, as its great importance demands. It is, however, believed that something may be done, that will be of lasting benefit to our agricultural interests, and that such measures may be adopted, as, with small expenditure, will materially aid in developing the ample resources of the state. In the present crippled condition of our pecuniary affairs, you will do much in the promotion of public good, if, by some appropriate legislation, you put within the reach of the husbandman the improvements and discoveries made in his art by the researches of science. Encouragement may also be given to this important branch of industry, by providing for the organization of agricultural societies, and otherwise encouraging their formation.

By a combination of circumstances, untoward and militating against our interests, and yet beyond our control, Michigan, though now five years an acknowledged member of the Union, has not hitherto secured a full representation in the congress of the United States. At the time of our application to congress to be admitted as an independent state, so many embarrassing circumstances presented themselves at every step, that, I believe, the question was not raised, and if it had been, it is almost certain that it would have had no other effect than that of postponing our admission. This cause of complaint will cease to exist after the next apportionment of members of congress, when such number will

be assigned to Michigan as her population, under the last census, entitles her to claim. It is more than probable, however, that the apportionment will not be made before your session will be brought to a close. As, in that case, you will not be advised of the number of members to which the state will be entitled, it will be hardly possible to provide for their election by districts, though such method, when practicable, is without doubt the best adapted to a representative government, creating, as it does, a stronger feeling of responsibility from the representative to his constituents, and, by consequence, insuring, in his action, a more exact conformity to their will. If it should be found not possible to district the state at your present session, then two alternatives present themselves for your consideration; the postponement of the election to another year, or the enactment of a provision for holding it by general ticket. If the latter mode should meet your approbation, the number of members to be elected, when ascertained, may be made known to the electors by a proclamation to be issued for that purpose, or in such other manner as you may provide by law.

It is, perhaps, my duty to call your attention to an act of the congress of the United States, entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," approved September 4, 1841, and which is herewith transmitted. In the first section of this act, provision is made that Michigan, in common with all the new states in which the public domain is situated, shall be allowed and paid, over and above what she is entitled to by the terms of admission into the Union, the sum of ten per centum upon the net proceeds of the sales of the public lands, which, after the 31st December last, shall be made in the limits of the state. The second section provides, that the net proceeds of all sales of public lands in the United States, after deducting the ten per centum given to each state on the sales made therein, and the amount allowed by compacts of admission and incidental expenses, shall be divided among all the states of the Union and the territories therein, according to their respective federal population, to be applied to such purposes as their several legislatures may direct. The payment of such net proceeds is to be made on the first days of January and July of each year, to such person as the legislatures, or the governors, in case the legislatures shall have made no such appointment, shall authorize and direct.

In the eighth section, five hundred thousand acres of land, for purposes of internal improvement, are given to this state, in common with other new states possessing public domain, with the proviso, that the amount of land that any such state may have already received, shall be deducted from the amount given by the act, and the quantity given shall be selected by each state within its limits, in such manner as its legisla-

ture may direct, and be located in parcels of not less than three hundred and twenty acres each.

That portion of the act in question, which proposes, in some degree, to do justice to Michigan, by relinquishing to her five hundred thousand acres of land for purposes of internal improvement, we can readily sanction. Ohio and other new states, have long ago received the same, or a greater quantity, for like purposes, and no reason has existed why the relinquishment of this land should not, ere this, have been made in favor of Michigan. You will perceive that an act of legislation will be required to direct its location.

It is not, perhaps, now an appropriate time to detain you with discussions of constitutional law on the subject of rightful ownership, by the new states, of all unseated and unpatented lands within their constitutional limits. Without, however, waiving claim to any rights that, on a proper decision of that momentous question, may be found vested in Michigan, we may acquiesce and participate in the benefits resulting from the long established policy of the federal government, of relinquishing portions of the public domain to the states and territories in which it is situated, for purposes of internal improvements and general education. That government, claiming, as it does, the fee in all such lands, but promotes its own interests by relinquishing portions for those purposes. It thus encourages the settlement, and, of course, increases the value of the remainder. In appropriating, then, the land so relinquished, to the purpose designated in the act, the benefits resulting, are common to both governments.

The policy, if not constitutionality even, of other provisions of the act, may well be called in question. If the public domain be considered as rightfully appertaining to the states in which it is situated, by reason of their sovereignty, then the distribution of the proceeds of their sales does injustice to those states, by giving to others what of right belongs to them. On the other hand, conceding that the sovereignty acquired by a state in which public domain is situated, does not annul or in any manner alter the obligation of the articles of cession from the ceding states, and in view of those articles, that domain is still considered and held as a common fund for the joint benefit of all the states, then the distribution violates the terms of cession.

The best interest of the people is not promoted by distributing accruing revenue and supplying its place by increased taxation. The western states manufacture less, and, of course, consume more foreign articles than the Atlantic states, and they, by consequence, will bear a greater share of the burden of increased taxes than their eastern neighbors. It is but ill-advised economy, to give away millions of money when present wants can only be relieved by resort to loans. The objection to a distribution of this portion of revenue, is in no degree lessened because it is

derived from public lands; that derived from duties on imports could, with equal propriety, be divided among the states. The measure has a tendency to consolidate all power in the federal government, and to make the sovereign states pensioners upon its bounty. The state, by no action of its constituted authorities, should commit itself in favor of the principle of distribution. We are, in reality, injured by the measure; for every dollar coming to our share, we must pay two in additional taxes. Acceptance of the dividend, if it be deemed advisable to accept, should only be under protest against the principle of the act, accompanied with the reservation of right, and declaration of intention, to use all lawful means to procure its repeal.

I herewith transmit, for your consideration, a joint resolution of congress, "making it the duty of the attorney general to examine into the titles of the lands or sites for the purpose of erecting thereon, armories or other public buildings, and for other purposes." That portion of the resolution, to which your attention is particularly invited, relates to the grant of jurisdiction asked by the United States over the lands and sites purchased for the purposes enumerated. The relinquishment of any portion of sovereignty within our constitutional limits, requires serious consideration; and yet, situated as our state is, on the frontier of a province of the most powerful kingdom in the world, the principle of self-preservation seems to require us, by all reasonable concessions, to encourage the erection of all works of defense which the federal government may be desirous to establish. For defensive works and barracks, and purchase of site at or near Detroit, the sum of fifty thousand dollars was appropriated by congress at its last session.

Our works of internal improvement, heretofore projected and prosecuted to the present time, with greater or less efficiency, will claim your serious attention. The system, so called, was altogether beyond our means, and, indeed, embraced projects of improvement that were not at the time required for public good. The works projected and objects of improvement are as follows:

1. The central railroad, from Detroit to St. Joseph—the whole length 198 miles—estimated cost, \$2,100,160.26. The amount appropriated on this work is \$1,300,000.00. Amount expended, \$1,063,484.41, leaving an unexpended balance of \$236,515.59.

2. The southern railroad, from Monroe, on lake Erie, to New Buffalo, on lake Michigan—length 179 miles—estimated cost, \$1,918,509.47. Amount appropriated, \$750,000.00; expended on the work, \$668,988.55, leaving an unexpended balance of \$81,011.45.

3. The northern railroad, from Port Huron, on St. Clair river, to lake Michigan, in the county of Ottawa—length, 201½ miles—estimated cost \$1,509,515.75. The amount appropriated on this work is \$150,000,

of which have been expended \$77,916.58, leaving the unexpended balance of \$72,083.42.

4. Havre branch railroad, from Havre to Monroe—length, 13 miles—estimated cost, \$73,515.86; appropriated, \$20,000; expended, \$910.84; unexpended balance, \$19,089.16.

5. Clinton and Kalamazoo canal, from Mt. Clemens to the mouth of Kalamazoo river—whole length, 217 miles—estimated cost, \$4,119,814. On this work have been appropriated \$330,000, and expended \$332,918.34, making an excess of expenditure, of \$2,918.34 above appropriations.

6. Saginaw canal—length, 13 64-100 miles—estimated cost, including improvements of Bad river, \$186,259.62; appropriated, \$62,000; expended, \$52,749.98; balance of appropriation unexpended, \$9,250.02.

7. Sault Ste. Marie canal—length, 7-8 of a mile—the estimated cost of which is \$112,544.80—on which have been appropriated \$50,000, and expended \$3,041.86, leaving an unexpended balance of \$46,958.14.

8. Canal around Grand Rapids, about 1½ miles in length. The estimated cost on the north side is \$46,495.90, and on the south side \$31,964.10; appropriated, \$25,000.00; expended, \$219.39; unexpended balance, \$24,780.63.

9. Improvements of Grand and Maple rivers—cost estimated at \$98,989.90; appropriated, \$30,000.00; expended, \$22,582.35; unexpended balance, \$7,417.65.

10. Improvement of the Kalamazoo river—estimated cost, \$7,799; appropriated, \$8,000.00; expended, \$6,241.56; balance unexpended, \$1,758.44.

11. Improvement of St. Joseph river—estimated cost, \$271,558.20; appropriated, \$25,000.00; expended, \$3,974.69; leaving an unexpended balance of appropriation, of \$21,025.31.

12. Improvement of the state salt springs. There has been appropriated out of the internal improvement fund for this purpose, the sum of \$28,000.00, of which \$20,134.32, has been expended, leaving an unexpended balance of \$7,865.68. The attempt to obtain water possessing qualities suitable for making salt, has, thus far, proved unsuccessful.

13. La Plaisance bay railroad, from Monroe to La Plaisance bay, a distance of four miles. The amount appropriated and expended on this work, is \$34,113.00; a further sum has been expended, of which an account has not been rendered.

14. Detroit and Grand river road. This is an ordinary road, for the improvement of which, for travel, the sum of \$5,000 has been appropriated, and \$487.87 expended, leaving a balance appropriated of \$4,512.13.

15. Flint and Saginaw turnpike. On this road have been appropriated \$5,000.00, and expended \$3,876.61, leaving a balance unexpended, of \$1,123.39.

16. There has also been appropriated out of the internal improvement fund, for instruments and surveys made in 1837, \$20,000.00 and expended \$37,625.99, making an excess of expenditure over appropriations, of \$17,625.99.

Our whole system of internal improvement, it will be seen, embraced about five hundred and ninety-six miles of railroad, about two hundred and thirty-three miles of canal, and the improvement of five rivers. The estimated cost of these improvements, is \$10,489,275.76, though probably their real cost, were they completed, would not be less than \$15,000,000.00; the amount appropriated is \$2,842,113.00, of which have been expended, \$2,329,266.32, leaving an unexpended balance of \$512,846.68.

Of the above works, the Central and Southern railroads are the only two which have yielded, or are likely, at present, to yield a revenue. The net earnings of the former, for the year ending 30th November last, was \$25,655.30. The net earnings of the latter, from April 29 to November 30, were \$2,301.61, making the whole amount of revenue, from our works of internal improvement, for the year ending on the 30th November, \$27,956.46, a little over one per cent on their cost, and probably less than their dilapidation. It is proper, however, to say that, until the fourth of July last, the Central railroad was finished only to Ann Arbor, a distance of forty miles, when it was brought into use as far as Dexter, fifty miles from Detroit. It is now completed to Jackson, thirty miles west of Dexter and eighty miles from Detroit. The commissioners, and probably with good reason anticipate a large increase of business upon this road in consequence of its extension so far into the interior, and a correspondent increase of revenue. Contracts for grubbing and grading the line of this road between Jackson and Marshall, have recently been let.

In regard to the revenue from the Southern road, it is also proper to say, that it is completed only between Monroe and Adrian, a distance of thirty-six miles. The chief engineer on that road estimates the amount necessary for its completion to Hillsdale, exclusive of iron, to be \$15,632.00. The whole distance between Adrian and Hillsdale, will soon be ready for the iron.

The expenditures on the several works of internal improvement, for the year ending November 30, 1841, is as follows: On the Central railroad, \$194,586.49; on the Southern do, \$148,185.60; Northern do, \$7,022.24; Clinton and Kalamazoo canal, \$56,754.68; Saginaw do, \$5,172.79; canal around Grand Rapids, \$88.84; improvements of Grand river, \$104.17; Kalamazoo do, \$1,154.63; St. Joseph do, \$1,706.02; Detroit and Grand River road, \$847.87; Saginaw turnpike, \$3,876.61. Total, \$419,139.94.

This is a general, and I believe a correct view of our works of internal

improvement. The conception of the plan on a scale so magnificent, is to be attributed to the erroneous opinions of wealth, produced by the influence of a too redundant paper currency. The system was altogether too extended for our wants, and required expenditures beyond our means. It was projected at a time when things were too often viewed through a distorted vision. Property has assumed a fictitious value; national as well as individual revenues were greatly over-estimated, and the minds of men had become inflated by imaginary success in the acquirement of wealth. Individuals embarked with confidence in enterprises which they now regard as extravagant and visionary. The spirit of the times unfortunately became the governing policy of states, and Michigan, with a population then less than two hundred thousand, inhabiting a territory new and recently settled, with few immediate resources but her credit, projected a system of internal improvement which would have been a grand undertaking for the oldest and most wealthy states.

This general delusion has now passed away. Men have returned to sober sense, and rely on the realities of life. Visions of wealth to be produced by the issue of bank paper, have vanished to return no more. Productive industry is alone regarded as the true source of wealth, and among the errors of the past, we now account the projection of our system of internal improvement.

The report of the board for the last year, is already printed and ready for your examination. In that report you will find the present condition of each particular work set forth in greater detail, and such information generally as will enable you more fully to understand the subject.

Those portions that are finished, it should be our first object to make available on the most economical plan. Such portions as are yet unfinished, but so nearly so that comparatively small future expenditure will render productive large outlays already made, should be finished, if means can be found at command.

The completion of the plan, as a whole, can now no longer be hoped. All action, therefore, having in view its further prosecution, it is respectfully suggested, should be restricted to such portion of the system as, affording facilities to the greatest number of our citizens, will, at the same time, yield the greatest revenue. Reference to the financial condition of the state, of which a summary is contained in this communication, will show the unavoidable necessity of conforming all future legislation to this suggestion. All the means that may hereafter come into the treasury for purposes of internal improvement, after discharging the liabilities of that fund already incurred, should be husbanded with the strictest regard to economy and public good. The uncertainty of our

resources should deter us from authorizing their anticipation, and the disastrous results of legislation in past years, should warn us against increasing the indebtedness of the state.

In connection with the subject of internal improvement, it seems appropriate to call your attention to the condition of our finances. At the time of adopting that splendid scheme of improvements, so captivating to a fervid imagination, but so entirely beyond our resources, present or prospective, the legislature, led astray by the examples of older and more populous states, whose policy it was, at the time, considered wisdom to admire and safety to follow, authorized a loan of five millions of dollars to hasten its completion. This loan was negotiated, and its proceeds, so far as received, applied in aid of the plan. If this plan had only been projected, or being projected, had the resources of the state alone been applied in its prosecution, the evils resulting would have been far less. If the errors of the time had led us only to extravagant expenditure of our own money, our present difficulties would have been less complicated and embarrassing. In our aspirations of grandeur, however, we despised our own little means, and, resorting to a prodigal use of our credit, we lavishly expended the money of others, to replace which we shall have to encounter, on every hand, difficulties of a perplexing character. We not only borrowed for our internal improvements, but also for the state penitentiary, the university, the support of the state government, and even for private incorporations.

The state has loaned at different times, the following sums:

For the state government	\$ 100,000.00
For internal improvement	5,000,000.00
For the Jackson and Palmyra railroad company.....	20,000.00
For the penitentiary in 1838	20,000.00
For the Detroit and Pontiac railroad company.....	100,000.00
For the penitentiary in 1839	40,000.00
For the university	100,000.00
For the Allegan and Marshall railroad company.....	100,000.00
For the Ypsilanti and Tecumseh railroad company.....	100,000.00
In addition to these several loans, the state also owes on	
bonds issued on account of delinquent tax.....	182,625.67
On state scrip outstanding on 1st December last.....	208,702.00
On auditor's warrants outstanding	128,958.42
For interest due, for payment of which no provision has	
been made, estimated at	160,000.00

Making the whole indebtedness of the State at this time. . \$6,260,286.09

The annual interest on this sum, at six per cent, is \$375,617.16. A few of our bonds bear interest at the rate of seven per cent. The greater portion, together with the scrip, bear an interest of six per cent only.

There is now due the state on the five million loan from the Morris canal and banking company	\$852,625.00
From the bank of the United States	1,306,312.50
There is also due on bonds issued for the erection of the penitentiary, about	20,000.00

Making the whole amount due\$2,178,937.50

If the bonds for which we have received no consideration, should be returned, the entire indebtedness of the state, on the first of the present month, after making a proportionate deduction of the interest above estimated to be due, would be about \$4,017,000.00.

The bonds given by the state, on account of the Palmyra and Jacksonburg railroad company, will be due in November of the present year. The principal on the remainder, with few exceptions, will not be due till 1863.

To pay the accruing interest on our indebtedness, the state has no other regular revenue, than that arising from the net earnings of the Central and Southern railroads, which, as has been seen in 1841, was only \$27,956.46, though the present year it will probably be much more.

The bonds issued for the benefit of the university, will probably be paid from the fund appertaining to that institution, and something may eventually be realized from the private incorporations for whose benefit the state has assumed liabilities. Those incorporations have, in nearly every instance, failed to pay accruing interest, and now all are in default; and, by an enactment of the last legislature, the Palmyra and Jacksonburg railroad company was, on certain conditions, released from the payment of the bonds issued on their account.

For the payment of the amount due the state from the Morris canal and banking company, some collateral security has been obtained; but to what extent it will indemnify the state against losses by that institution, I have no means of forming an opinion. The bank itself is represented as hopelessly insolvent. For a more particular account of this claim, and of the nature of the securities, you are respectfully referred to joint document numbered eight, of the last legislature. For the payment of the installments coming from the United States bank, no security has been given to the state.

Most unfortunately for Michigan, in the negotiation of the five million loan, the bonds were delivered before the money was received, and a contract made for its payment, in installments, as it would be wanted by the state. No doubt was then entertained of the entire responsibility of the contracting parties; but subsequent experience has taught us

our mistake. The Morris canal and banking company, in 1840, failed to perform its contract with the state, and in October last, the bank of the United States also failed to pay the installment which became due at that time. I am not sufficiently acquainted with the present condition of this institution, to give you accurate information on the subject, but its affairs are represented to be in a most forlorn and embarrassed state, so much so that its credit is wholly lost and its stock valueless in our eastern cities. Its enormous capital seems to have been wasted in political contests, and in wild and extravagant speculations in stocks and cotton, and in puerile attempts to recover its credit after its fortunes had become desperate and irretrievable. For this purpose, large amounts of American stocks, our own among the rest, are said to have been pledged abroad for temporary loans. I am aware, that persons connected with the institution, have given assurances that it would be able, ultimately, to discharge all its liabilities to the public, with the sacrifice only of its capital. Such are not, however, the anticipations which our experience with insolvent banks has taught us to entertain, and in my opinion will not, in the case of the bank of the United States, be likely to be realized. The domestic assets of the institution, it is understood, have passed from its possession, by assignments made at different times in behalf of favored creditors. We may reasonably expect that the entire proceeds of these assets will be thus exhausted, especially as they have become depreciated by the change of times, the bankruptcy of debtors, and the general fall of prices. Under circumstances thus untoward, we can reasonably have no well grounded expectation of obtaining from the bank the installments yet due.

Such is the present condition of our finances, and it is due to the people that it should be made known, that they may not misunderstand or misconceive the resources of the state; and it is also due to you, as otherwise the policy of measures, which prudence may induce you to adopt, might not be fully appreciated. It is ever wise to meet difficulties in their worst aspect. No one can be more fully sensible than myself, of the embarrassments you will have to encounter, or more deeply impressed with the importance of wise and prudent action in all branches of the government. It is under difficult and trying circumstances, that sound wisdom and true patriotism exhibit themselves with most effect. The country requires us to act like patriots and statesmen, and I hesitate not to express the opinion, that it is due to our character as a people, as far as possible under the circumstances, to preserve inviolate the public faith. The same principles of equity which bind the consciences and govern the actions of individuals in dealings of a private character, ought ever to regulate the conduct of states. More imperative, indeed, upon them rests the obligation of such principles, since their own

views of justice and uncontrolled will, constitute the only rules of their action. Considerations of expediency even, are by no means wanting, if any were necessary, to strengthen these convictions of duty. If those who make and administer the laws, are found, in their official capacity, to disregard the obligations of good faith, little respect will be felt or observed by the citizen to their most solemn enactments, or to the highest tribunals of public justice. Deeply impressed with the truth of these sentiments, I hesitate not to declare, that every just debt of the state should be acknowledged and paid; that while she should submit to no wrong, she should herself withhold no well founded right. Such I believe to be the universal sentiment of the people of Michigan.

While, however, we are careful to maintain the faith of the state and to do justice to the public creditor, we should be duly impressed with the imperative duty of protecting well the rights and interests of the people against impositions and unjust exactions. If, through our negligence or oversight, illegal or inequitable demands upon the public treasury should be admitted and sanctioned, the taxpayers, we might justly apprehend, would not cheerfully submit even to the burdens which its real necessities might require. Our first duty is to our constituents, whom we represent, and whose interests we have been chosen to protect, and the utmost firmness and caution will be demanded at our hands.

Under the circumstances of the case, I respectfully suggest the propriety of appointing, at your present session, one or more persons of approved fidelity and discretion, who shall be authorized to obtain from these defaulting institutions, the bonds for which we have received no consideration, and to make a settlement with them on such terms as you may direct; and, in case no settlement can be made, then to inquire into and ascertain who are the holders and owners of all the bonds of the state now outstanding, and to report their proceedings to the next legislature. In making such settlement, as justice and equity may dictate, we should not lose sight of the damages we have sustained by the failure, on their part, to fulfill the contract entire.

In the meantime, it is incumbent upon us to husband the resources of the state with scrupulous care; to introduce every practicable reform into the public service, and thus prepare, as far as possible, to meet all just demands upon the treasury. It will not, however, be possible, for reasons already adverted to, to meet the interest for the present on the public debt. The semi-annual interest due on a portion of our bonds, in November last, as well as the interest due on the first of the present month, the late administration have found it impossible to meet, and the amounts then due, consequently remain unpaid. The want of present ability, however, to pay accruing interest, should not induce us to view with indifference the faith of the state that has been pledged for both

principal and interest. Our present inability is owing to the fault of others, and not to a want of disposition on our part, and it should be our constant effort to remove it. The annual interest due on the bonds issued by the state, for which no provision is made by existing legislation, is about \$350,000. The amount cannot be raised by direct taxation from the people, in addition to the burdens now imposed upon them. Indeed, under the present circumstances of the country, little or no more can be raised from that source, than will be required to defray the current and ordinary expenses of the government. If an equitable settlement be made in relation to the five million loan, the principal, and, consequently, the interest, will be greatly lessened. It may comport with your views, to lessen further, or wholly to cancel our indebtedness, by giving the five hundred thousand acres of land relinquished to us by congress, or other property belonging to the state, in exchange for our bonds, in case an arrangement to that effect can be made. The entire extinguishment of the public debt is desirable, and its propriety enforced by every true principle of political economy.

To relieve the state from the odium of issuing an irredeemable currency, as well as from considerations of sound policy, the treasury notes, or scrip, now outstanding, should, at the earliest moment possible, be withdrawn from circulation. The evils of issuing a paper medium of this character, aside from the questionable constitutionality of the measure, are too numerous and too palpable to require enumeration at this time. The scrip was issued from the mistaken notion that, by changing the form of indebtedness, payment was made. It is, however, only a representation of the debt it purports to have paid, and which still remains until the scrip itself is redeemed. To re-issue it in payment to the public creditor, renders the government obnoxious to the charge of issuing, and, consequently, encouraging a depreciated paper currency, and when it is once paid into the treasury, it should be cancelled. The auditor's warrant on the treasury, is as available as the same amount of state scrip, but the difference of these two kinds of evidence of public indebtedness is material, as regards the community and paper currency of the state. The one assumes the character of paper money, the other does not; but, like a common promissory note, is considered merely evidence of indebtedness, and no more.

The issue of the scrip was based on the installment of the five million loan, due in October last, from the United States bank, and which was not paid. To give it greater currency as a circulating medium, the general fund was pledged for its redemption, as it was to be received in payment of all taxes and dues to the state, and the consequence is, that nothing else is paid into the treasury, and the state is absolutely left without means for defraying the expenses of government. No funds are

at command even to pay any of the expenses of the present session of the legislature, or any other expenditures necessary to keep in motion the wheels of government. The amount of scrip outstanding is sufficient to absorb all the taxes and revenues, for the support of the state government, for the next two years, and by consequence, to keep the treasury without any means during that time. Such portion as may be otherwise absorbed, will of course, by lessening the aggregate amount, tend to relieve the burden upon the general fund, where the evil is now most sensibly felt. The debt for which the scrip was issued, having been incurred on account of works of internal improvement, it should be redeemed by that fund; but until its means can be made available, the proceeds of the sale of university and school lands may be applied to that purpose; the state paying for the benefit of those funds, the usual rate of interest until principal can be returned.

Our present embarrassments, and the means by which they have been brought upon the state, render it worthy of your consideration, whether it would not be expedient so to amend the constitution, as to require the consent of the people to all loans hereafter made by the state for works of internal improvement, or for any other purpose not connected with the legitimate wants of the government.

The currency, and consequently, the institutions which furnish that currency, will demand your attention at your present session. The evils of a suspension of specie payment by the banks, whether authorized by law, or tolerated by public opinion, are numerous. It enables banks to impose upon the public a currency without any sufficient basis for its redemption, and institutions, that are rotten and worthless, to flood the country with their irredeemable notes, while it takes away the only means the public have of testing their value. It operates as a mildew and blight upon all prosperity; enables the swindler, under forms of law, to possess himself of the productions of the industry of others; renders employment uncertain, and paralyzes all business of the country. It destroys confidence between man and his fellow-man, and tends to corrupt and undermine the public morals, to a greater extent than all other causes combined.

The people are in no way benefitted by a suspension. The depreciation of the currency, which is always consequent upon it, results only in the benefit of banks, by enabling them to purchase up their circulation below a par value. Whatever this depreciation may be, it is a loss to the people, and a gain to the banks.

Bank paper can never be at par unless it be convertible into coin at the will of the holder. It is in itself of no value, and it is beyond the power of legislation to give value to that which possesses none. Being but evidence of indebtedness, it will be valued and sought only when there is a

certainty of its redemption. The ultimate responsibility of the bank issuing it, will not give it sufficient character to make it answer the purpose of a currency. Convertibility at the will of the holder can alone effectually insure that object. Irredeemable paper, it is true, may have a circulation, but it is from the fact that it is convertible at some rate; and though it may nominally pass at par value, yet the prices of commodities given in exchange are always fixed with a view to its depreciation. In a word, bank paper is worth only what the institution which issues it, will give or cause to be given in its redemption. A par currency of bank paper can only be secured by compelling banks to redeem their circulation in coin on demand, and by making the refusal to do so, a forfeiture of charter. No excuse for such refusal should ever be admitted. The evils of a proper medium not convertible into coin at the will of the holder, have become too palpable and too onerous longer to be endured, and public opinion calls for their correction with a voice that cannot be mistaken, and with an earnestness that cannot be resisted.

The frequent resort to suspensions of specie payments by the banks, and the evils attending it, are in some degree to be attributed to a want of a proper legislation, but more to a neglect to carry into effect the laws in force on the subject. Banks are required by their charters to pay specie on all their liabilities, and their whole management should be such as will insure a strict compliance with this requirement. Their loans and discounts, and their whole business, should be kept in that restricted sphere, and so entirely within their means, that their ability to do so will never be endangered. The cupidity of bankers should not, however, in this respect, be trusted. The management of banks should be subjected to a strict supervision and legal control. Those to whom this supervision and control is entrusted, should be required in all cases, to cause every institution to be enjoined, that had, in any degree, exceeded its legal authority, or even departed from bounds prescribed by a reasonable discretion. It is not enough that a bank restrict its circulation to the amount prescribed by law. That circulation should be issued only for legitimate purposes, and with due consideration not only of the ultimate safety of the paper discounted, but of the reasonable probability of its being paid at maturity. Loans should never be made but for short periods, and those who have the supervising control of banks, should exercise that duty principally with regard to the safety and present availability of their assets. A permanent loan, made by a bank, whatever may be the security for ultimate payment, is an absorption of so much of its capital for all purposes of banking, and when the amount of permanent loans equals the amount of its capital, then such bank has no longer the means to transact business. The capital beyond its reach is of no avail, and it has no greater resources for the immediate

redemption of its bills, than an institution without pretensions to capital. An investigation into the affairs of a bank, affords little or no information of its actual condition, or of its ability to do a legitimate business, unless in such investigation, the assets be inspected, their present availability considered, and their value ascertained. A parade of figures, setting forth a debit and credit, as is usually contained in a bank report, will give no satisfactory knowledge of its real condition. Reports of that character, made by those interested, instead of being of public utility, are too often calculated to mislead and deceive. The reports of the condition of banks made by disinterested persons alone, and upon actual inspection and valuation of their assets, are likely to be of public use, or to give correct information.

In the organization of banks, and the payment of their capital, resort is too often had to fiction. A *bona fide* payment, in terms of law and in obedience to its requirements, is seldom or never made. If the money be actually paid in for the stock, it is with the expectation and understanding that the same, or even a greater amount, will be returned in the shape of a permanent loan. No person can be legitimately an owner of bank stock, unless he be a money lender. A bank can be legitimately created only with surplus capital paid in as a permanent investment, for the use and purpose of banking. This capital should be so paid in, without any hope or expectation of obtaining loans; for one and the same individual cannot consistently be, at the same time, both a lender and a borrower. The idea of making banks to borrow back our own money, is absurd, as is, also, the idea of lending money to others through the medium of a bank, when we are ourselves but borrowers! All such operations are frauds upon the public, and to suffer them to pass unnoticed, is evidence of culpable remissness on the part of those whose duty it is to see the laws faithfully executed. So far as may depend on me, all such frauds, whether committed at the incipient steps taken in the formation of the banks, or at any subsequent stage of their operations, will be exposed and their perpetrators punished.

In view of these considerations, I respectfully recommend the immediate and unconditional repeal of all acts and parts of acts, directly or indirectly authorizing banks to suspend the payment of their liabilities in legal currency, and particularly the act entitled "An act suspending certain provisions of law, and for other purposes," approved April 12, 1841.

I also recommend that the charters of the several banks be so modified, that the refusal to pay specie on any liability, at any time or under any circumstances, should work a forfeiture of all corporate privileges. It is believed that such a provision would, in an eminent degree, insure a proper and judicious management of banks; restrict their operations

within a safe and legitimate sphere, and restrain directors from entering into or fostering wild and visionary schemes of reckless speculation. In the New England states, where is to be found the best paper currency of the Union, I am assured that a provision, similar in its features, is incorporated into the charters of all their moneyed institutions.

I recommend a further modification of the bank charters of the state, by making the stockholders and officers of each bank individually and collectively liable for its debts. This provision, besides the additional security thus obtained, would also further tend to the safety of the bill holder and creditor, by securing a more vigilant attention on the part of directors, than can be hoped when their individual fortunes are not at stake.

In addition to personal liability, it is worthy of your serious consideration, whether, in all cases, insolvency should not be deemed *prima facie* evidence of fraud, and the directors and other officers, and all privy thereto, be liable to indictment, and on conviction, to appropriate punishment. The insolvency of banks, in most cases, results from a failure to comply, in good faith, with the requirements of law, and no good reason is perceived why those who are culpable for such neglect, should not suffer for the injury by them inflicted on the public.

Your attention is respectfully called to the fact, that some of the banking institutions of this state, professing not to be under the provisions of the "act suspending certain provisions of law, and for other purposes," yet by evasion of law, contrive to impose upon the public a worse species of irredeemable currency, than that which is issued under that act. These institutions, without any sufficient authority, make their circulation payable in some other state, or in the irredeemable bank notes of other states. It is believed that their liability to pay specie on demand at their counter, on such unauthorized issues, is in no degree relieved or lessened by a subterfuge so objectionable; yet, thereby a pretence is made for redeeming such liabilities at an excessive rate of discount. No bank charter in this state, it is believed, expressly or by implication, authorizes the issue of such paper for a circulating medium. Banks are required to pay all their liabilities in coin, and all just construction of law forbids the evasion of this imperative obligation, by expedients so incompatible with honest intentions and honorable dealing. It is worthy of your consideration whether, in view of these circumstances, it may not be proper to pass some declaratory act that will effectually correct similar abuses in future, by making the legal obligations of banks more explicit and more generally known. If such a species of irredeemable currency be permitted to exist, from want of proper legislation, or from omission to give effect to existing laws, it will be in vain that you repeal the law authorizing a suspension; for you will not thus reach

the evil. The refusal to redeem, on demand at the counter, in lawful money, notes issued evidently for circulation, through purporting to be payable abroad, should work a forfeiture of charter in like manner as the refusal to pay notes expressly made payable at the banking house. The issue of bank notes, payable in other bank notes, should, in all cases, be a forfeiture of banking privileges. It is already, by the laws of the state, made a penal offence to pass, or attempt to pass, a bank note payable in any thing other than the lawful money of the United States; and banks should be restricted from issuing a currency which the people cannot use without violating law.

By the "Act to abolish the office of bank commissioners, and for other purposes," approved March 25, 1840, the attorney general, on the requisition of the governor, is required to institute an examination into the condition and affairs of banks, and, generally, to do the duty of bank commissioners. It is not known that any investigation, by virtue of this act, has ever been made into the condition and affairs of banks, though some of the most extensive losses suffered by the public, in the depreciation of bank paper, have occurred during its existence. The limited number of banks now in existence, may not warrant the revival of the office of bank commissioner, but it is respectfully submitted whether the duties of attorney general are, in all respects, consistent with the proper discharge of the additional duties of bank commissioner.

I wish also to call your attention to the propriety of prohibiting, by law, the circulation of the irredeemable notes of the suspended banks of other states. It will be in vain that we compel our own banks to adopt a broader basis of specie capital and to pay all demands upon them in coin, if, at the same time, we permit other states to send here at will their spurious currency. If the inconvertible paper medium of foreign corporations be permitted to circulate within our limits, our people are not effectually protected from imposition. They have, indeed, less means of judging of the solvency of banking institutions abroad than of those in our own state. If no provision be made on the subject, there is danger that our own banks will, in their discounts and other transactions use this irredeemable and worthless paper. They have heretofore used it, instead of specie, as a capital for ordinary operations of banking, and it would be a less infringement upon moral principle, and a less violation of law, to discount with it at once. Your intervention is urged with additional force from the consideration that the banks of neighboring states now issuing an irredeemable currency, are deemed generally insolvent. Some, doubtless, are sound, but our citizens have little means of making discrimination, and cannot protect themselves from imposition. It is as competent for you to prohibit this species of currency, as to prohibit the circulation of counterfeit

paper money. There is little less immorality in the issue of the one than in the issue of the other; though, over the one case, the law extends its protecting arm, and withholds it in the other. Our citizens should be protected from the impositions consequent upon both.

I deem it a matter of duty, before dismissing the subject of banks, to call your attention to the fact that many charters of banks, which have long ceased to redeem their liabilities, and to transact banking business, have yet a legal existence. We are admonished by the history of the past, that the public are liable to be deceived and defrauded in the resuscitation of these old charters which, from non use for a long period, have been forgotten or supposed to be extinct. If you do not deem it proper at once to repeal the charters of this class of incorporations, there will be at least, propriety in prohibiting the resumption of their corporate privileges, except under the sanction of some appropriate authority to be designated by law.

Incorporations, established for other avowed purposes, have, without warrant of law, assumed and exercised all the rights and privileges of banks, and, like them, have issued notes for circulation and currency. Some provision of law is required by which such usurpation of powers, may be more speedily and effectually restrained.

Some of the municipal incorporations of the state persist in issuing small bills, of a denomination less than one dollar, and evidently intended for purposes of circulation. Whether this species of currency has been hitherto legal or illegal it should no longer be tolerated. It serves to exclude from circulation the coin that would otherwise take its place and serve for the purpose of change, and is little less than an imposition upon all not connected with the corporate authority by which it is issued.

We are indebted to the president of the United States and the veto power with which he is vested for saving the country from a repetition of the evils of an inflated paper currency, under which it has so lately and so severely suffered, and with which, at the late extraordinary session of Congress, it was again threatened by the attempt to charter a new National Bank. The president would have merited more fully our gratitude, had he not, at the same session, approved of other enactments of a most objectionable character. The recent failure of the United States Bank of Pennsylvania, which may with justice be considered the old United States Bank, under a state charter, and the devastation and ruin it has spread far and wide throughout the country; should warn us against the creation of an institution vested with so extensive power to do evil. However much the country may have been divided, heretofore, on this subject, it would seem from the experience we now have, there is no longer reason for a difference of opinion.

The pecuniary embarrassments of the country may, in a great measure, be traced to this institution, and its ruinous expansion of the credit system, commenced under a national charter, and consummated, together with its own ruin, under one derived from state authority. Its credit abroad, and its supposed solvency and facilities for obtaining loans, enabled it to draw within the vortex of its ruin, states as well as individuals. In the revised statutes, provision is made for the appointment of a reporter of the decisions of the supreme court and of the court of chancery. That officer receives an annual salary of six hundred dollars, payable quarterly out of the state treasury. Nearly three years have now elapsed since his first appointment, and yet, for causes into which it is proper for you to inquire, we have not a single volume of reports. About three hundred pages of decisions in chancery have been printed, and about two hundred and fifty more are ready for the press, which altogether, will make a volume of chancery reports. Written opinions of cases decided in the supreme court, have been received by the reporter from Mr. Justice Ransom, sufficient to make about one hundred pages, but no opinions have been furnished the reporter by the other justices of the supreme court. These facts naturally suggest the inquiry whether, under the present legislation upon the subject, the public are likely to receive an adequate benefit for the expense incurred in providing a reporter. The courts are required by law, to communicate in writing to the reporter, their opinions, as soon as convenient, after they are given, and he is required to publish the same annually. The subject seems to require your action, either by abolishing the office of reporter, or providing more effectual means to secure the publication of cases decided in the supreme court.

The subject of the assessment and collection of taxes, will claim your attention. It is believed that great inequality obtains in the valuation of property, not only in the different counties, but in different townships. While this evil is permitted to exist, the public burdens are not imposed alike on all, and it will be matter proper for inquiry, whether the fault is to be attributed to defect in the law, or its administration. Such also is the operation of the system generally, that little or nothing is paid into the treasury directly from the counties, as the amount of delinquent taxes due on lands returned to the auditor general annually, is nearly or quite equal to the whole state tax. As these lands cannot be sold until three years after they are returned, means are wanting during this time, for the support of the state government.

Complaints continue to be made of the unequal assessment of highway taxes, and in instances not a few, of the excessive amount imposed. The object for the imposition of this tax is certainly meritorious, and all property in the state should, in an equal and moderate degree, be

assessed for its promotion. As from official sources it is ascertained that the complaints made upon this subject are not without foundation, I doubt not you will apply such remedy to the evil as will be appropriate and effectual.

By provisions of existing enactments, non-resident lands on which the taxes remain three years unpaid, are exposed to sale for their payment. It is a subject worthy of your inquiry, whether, instead of selling the lands, some other measure may not be devised and adopted, better calculated to promote the interest of the state, and at the same time equally well calculated to protect the rights of individuals. The neglect or refusal to pay lawful taxes imposed on lands, is *prima facie* evidence of abandonment by the owner. Our laws now provide that the whole estate of an intestate who leaves no kindred, shall escheat to the people of the state; and no sufficient reason is perceived why the principle should not be extended, if not to other property, at least to lands which are abandoned by their owners. The laws of Virginia and other states provide that lands shall become forfeited and vested in the state, if the taxes assessed thereon remain unpaid for a specified time. It is respectfully submitted to your consideration, whether a similar provision may not, under proper guards and restrictions, with propriety and advantage, be incorporated into the laws of this state.

JOHN S. BARRY.

1843

January 2, 1843

From *Journal of the House of Representatives*, pp. 6-37

Fellow-Citizens of the Senate and of the House of Representatives:

The condition of the State in regard to public health affords cause of congratulation. All apprehensions of the insalubrity of our climate are, by happy experience, removed. General and almost universal health has prevailed for a long period and affords the satisfactory assurance that the mild climate of Michigan is not only congenial to the health of man, but highly promotive of that most desirable blessing. The diseases incident and peculiar to our climate, are limited in number and easily subjected to proper medical treatment. New England, with its hills and mountains, its streams and its rivers, and which so many of our citizens are proud to acknowledge their mother-land, affords scarcely a more salubrious clime than it is our happy lot to enjoy.

Peace reigns within our borders. Our country maintains amicable relations with all civilized powers of the earth, and no lowering prospect threatens to disturb our quiet. We are also happily exempt from all domestic violence.

Other blessings attend us to crown our joys with gladness. The labor of the husbandman, during the past year, has been crowned with abundant success. Rich harvests have amply repaid his toil. Abundance is everywhere to be found in the land, and at every step we meet the most satisfactory proofs of permanent prosperity. The wild forests are fast giving place to cultivated fields, and our citizens everywhere find an ample reward in the produce of their industry.

Of these and similar blessings we should never be unmindful, and for their enjoyment we should, humbly and with contrite hearts, render thanks to the great Ruler of the Universe, to whom alone we are indebted for every good and perfect gift.

The constitutional provision, which requires the representatives of the people to assemble at least once in each year, is designed to secure a more strict accountability in those to whom the execution of the laws has, for the time, been entrusted. Offices are created for public good alone, and their incumbents are at all time answerable for the manner in which they have discharged trusts confided to their care. Among the duties, devolving on you, not the least important will be that of enquiring into the present condition of public affairs, and of learning the manner in which they have been administered during the year now brought to a close. The strictest scrutiny is invited and

every necessary aid will be afforded to enable you to prosecute your enquiries with success. No fame should screen, no reputation should exculpate, and no dignity should shield a faithless or defaulting public officer who has wilfully, or through negligence, betrayed public interests entrusted to his keeping.

The promotion of science and literature deserves your fostering care, and I doubt not will receive from you the attention its importance demands. The happiness of all political communities, in an eminent degree, depends upon the intelligence of their inhabitants. Where ignorance prevails, vice and misery predominate. In a free government, if rulers be abandoned and profligate, it is because vice reigns among the people; for no vicious man could obtain promotion except from men vicious like himself.

Universal education is the only sure basis on which republican institutions can permanently exist. If we recur to history, whether of ancient or modern times, the examples we there find confirm this important truth. An ignorant, a degraded, and an immoral people would be neither prosperous nor happy under a free constitution. Their ignorance would prevent them from understanding and appreciating their rights, and their degradation and immorality would make them fit tools for demagogues more wicked than themselves.

The condition of every nation, whatsoever may be the form of its government, is to a great extent ameliorated and made happy in proportion to the degree of useful information possessed by the mass of its inhabitants. The people who are enlightened and who know their natural rights, will not submit as serfs and slaves to serve imperious lords; and among such a people the irresponsible and arbitrary will of rulers must give place to permanent and equitable laws. As a nation becomes enlightened correspondent progress is sure to be made in the improvement of its government; and revolution will secure what rulers refuse to concede.

Under our free institutions the government is the will of the people and knowledge should be the birth-right of every citizen. Education should not be restricted to a few, or to a favored class—the mass of the people produce the wealth and constitute the strength of the body politic, and to them should instruction in all useful branches of knowledge be extended. But for the general intelligence that exists, the order and harmony of society, which we now so much admire, would soon give place to chaos and confusion.

Among the subjects that are likely to engage your attention during your present session, that of common schools is perhaps, second to no other in importance. These primary institutions constitute the only sure medium by which the education of all can be secured. The enactments on the subject, above all other laws, should be certain, definite,

and easy to be understood. Such however, is not their condition, and an entire revision is required. It will be entirely within your province to determine how far alterations may be made with public advantage. An examination into the school systems of other and older states may afford information that will enable you better and in a more satisfactory manner, to discharge your duty in perfecting our own. Without assuming to dictate in regard to the details necessary to give efficiency to the system you may adopt, I may be permitted to suggest that provision should be made for the establishment of school libraries as numerous and extensive as the means devoted to that purpose will permit.

The amount received into the treasury during the last fiscal year, to the credit of the common school interest fund, was \$28,399.06. About eight thousand dollars of this sum not having been received in time for distribution, yet remains in the treasury. This revenue is the interest accruing from the proceeds of the sale of the sixteenth section in every township as designated by the original surveys of public lands. In a few instances small portions of the school lands have been leased; but the general policy has been to make disposition by sale. The moneys received on sales has been loaned and the interest thereon, together with the interest on sums yet remaining due and secured upon the land is devoted exclusively to the support of common schools. As a large portion of the lands yet remain unsold, and as a part of the money already received, it is feared, has been loaned upon insufficient security and losses from other causes are apprehended, it is at this time impossible to estimate the value of the fund, or to make probable calculation of the amount of revenue to be derived from it. The whole amount of principal now drawing interest is \$474,600.

The amount received during the last year to the credit of the university interest fund was \$9,035.40. Seventy-two sections of land were relinquished by Congress for the support of a University in Michigan, and the fund in question is the interest on the proceeds of their sale, and devoted to the payment of teachers in the University and its branches and to defray expenses incurred for such other objects as the regents deem necessary for the prosperity of the institution.

The causes which prevent an estimate of the value of the school fund, render it impossible to determine the value of the university fund. The minimum price, at present fixed upon the lands, is twelve dollars per acre; but it is believed that a large portion cannot be sold at that rate for many years yet to come. A reduction of price, however, is not deemed advisable at present. About one quarter of the lands has been sold, and the amount now at interest is \$132,576. This fund is embarrassed by anticipation of its revenue. A loan of \$100,000 has been made on its account, for the payment of which and the accruing

interest the fund is pledged; and this is calculated greatly to impair the present usefulness of the institution. The money has been expended and, except the buildings at Ann Arbor and the library and the apparatus they contain, little or nothing remains to show the usefulness or beneficial results of its expenditure. The interest due on account of the loan has been paid to the first day of July last; but for the amount that has accrued since, no provision has been made. As, from every consideration of justice, this interest should be paid with the least possible delay after it becomes due, I respectfully recommend that the State Treasurer be authorized to retain each year a sufficient sum from the University interest fund and apply it to that purpose. The remainder, when received, should, of course, be subjected to the control and disposition of the Regents for the beneficial purposes of the institution.

During the last collegiate year, branches of the University have been in operation at White Pigeon, Kalamazoo, Tecumseh, Detroit and Ann Arbor; at all of which places, except the latter, teachers have been employed by the Board of Regents, at an annual salary of five hundred dollars and the tuition fees. The primary department, or branch at Ann Arbor, has been under the charge of the professors in the University, who have been allowed, as perquisites, the fees received for tuition. For the year commencing in September last, appropriations have been made by the Regents of only two hundred dollars each to the branches at Tecumseh, White Pigeon and Kalamazoo. The branch at Ann Arbor is continued on the same conditions as heretofore, and that in Detroit without any assistance from the Board.

The main institution was opened on the 25th of September, 1841, and now contains about thirty students. Four professors have been appointed, of whom two only are yet under pay. The sum of \$600 per annum and the occupancy free of rent of one of the houses built for that purpose are allowed to each of the professors, besides an equal share of the fees for tuition received from the primary department. The facilities and inducements for study at the University of Michigan, are not excelled by those of any other similar institution of so recent establishment, and, in some of the sciences, particularly that of natural history, greater advantages are afforded than elsewhere can be had in the United States.

It is believed that the condition, both of the common school fund, and the university fund, might be improved and their productiveness increased by committing their care to some officer other than the Superintendent of Public Instruction. In the management of those funds, order of talent and qualifications are required, differing so essentially from the acquirements necessary to direct public instruction, that it is matter of surprise that duties so opposite in their character, should

have been imposed on one and the same individual. The office of Superintendent of Public Instruction is created by the constitution, and, if the obvious meaning of that instrument be carried into effect, its incumbent should be required exclusively to devote his attention to the superintendence of public education; while duties, wholly fiscal in their character, should be assigned to other officers to be designated by law.

The interests of the State are not sufficiently protected by existing enactments in relation to the fiscal duties of the Superintendent. No officer should be permitted to receive or disburse the public money but under such restrictions as will ensure the immediate discovery of any default; and, as a necessary check, the amount received or disbursed, with the proper vouchers, should be kept in some other department of government. Yet the Superintendent makes important sales, and, from time to time, receives large sums of money, as well of principal as of interest, while no documents exist, accessible to other State officers, by which the true condition of his accounts can be ascertained. Years and years may elapse before even his successor can learn his defaults; for a failure to make the necessary entries and acknowledgment of receipt of moneys, in the books of his office, can only be known from the vouchers of their payment, issued to individuals and by them held in private.

During the last year and a half \$4,520.67 has been received into the treasury on account of the university principal fund, and the further sum of \$29,665.16 has in like manner been received to the credit of common school principal fund, all of which amounting to \$34,185.83 remains on hand. This sum was received in treasury notes or scrip, and, as no provision of law exists which authorizes that species of indebtedness to be re-issued, except for claims against the general fund, it could not hitherto, be made available for the purposes of education. To save the university and school fund from loss, the amount, so due to each, should be considered a loan to the state, and the lawful interest, accrued and accruing thereon, should be paid from the treasury until the principal can be returned.

The legislature, at its last session, not knowing how many representatives to the National Congress Michigan would be entitled to send under the apportionment, then about to be made, provided by law for their election by general ticket; and it was made the duty of the executive by proclamation, to make known to the electors the number when the same should be ascertained. Instead, however, of making the apportionment of members and, as had been customary since the adoption of the federal constitution, leaving the States to provide for their election in such manner as they deemed expedient, Congress arbitrarily exercised, in this regard, a power which if not unconstitutional, is at least,

under the circumstances, doubtful in its character. The same act, which assigned to the States the number of their representatives, required their election in single districts.

The first clause of the fourth section of the constitution of the United States, provides that "the times, places and manner of holding elections for senators and representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations except as to the places of choosing senators." This provision so far as it confers any power on Congress, was inserted in the constitution to ensure the perpetuation of that body by enabling it to provide for the election of its own members if the States should neglect or refuse so to do. While, however, it was never expected the power would be exercised but on such neglect or refusal of the States, yet, being one of the conceded powers, the propriety of its exercise is a question of expediency, to be decided by Congress alone.

The constitutionality of the provision, requiring the members of Congress to be elected in single districts, in the present instance seems to depend upon the right of Congress to make or alter the regulations in part only, and its right to require the states to carry its enactments into effect.

On the one hand it is contended that the very terms of the constitution confer upon Congress exclusive jurisdiction of the subject, or no jurisdiction at all—that the history of the convention that formed the constitution and the history of the proceedings of the legislatures of the states which adopted it, confirm the correctness of this construction—that the very object to be effected, the election of members of Congress when the states refused to provide therefor, required, if at all, the exercise of this power in its totality. It is also urged that it is an anomaly in legislation to make enactments without collateral provisions by which to give them effect, and that the act in question is but an isolated dictum, which may or may not be regarded at the option of the states, a requirement that cannot be enforced—and that while the members of the next Congress may exclude from seats those not elected in accordance with its provisions, yet the members thus to be excluded may constitute a majority who would not be likely to exclude themselves.

On the other hand it is affirmed by those who avow its constitutionality and consequently the obligation of the states to regard its requirements, that Congress is expressly authorized to *alter* regulations adopted by the states, and that to alter appropriately means to vary in some degree without an entire change—that in this view Congress may, at will, make specific changes and that the states, under the constitution, must give effect to the action of that body.

Whatever may be the result of your deliberations upon this subject, I presume you will concur with me that you, the chosen representatives of the people, and you alone, can appropriately determine and decide upon a question of so great concernment to Michigan. Coming as you do directly from the people, chosen as you have been since the question has been raised, I am confident you will make such decision as will accord with public good and the wishes of our common constituents. I doubt not you will also deem the act of Congress sufficiently authoritative to warrant the course of the executive in withholding action on his part, the result of which would have been, to bring in collision the state and federal authorities. The constitutional enactments of Congress are as much binding upon the executive of a state as the laws of a state over which he presides; and, except in cases of manifest and undoubted usurpation by the general government, and in cases which from their nature admit of no delay, the people, the source of all power, should have opportunity, through their representatives, to express their will on subjects that threaten the harmonized action of our complicated yet beautiful system of government. Since the passage of the apportionment act, elections, by general ticket, have been held in the states of Missouri and Georgia; in the former of which, and it is believed in the latter also, under provisions of state laws requiring such elections without proclamation or other intermediate executive action. In Maine, where as in this state, a proclamation was necessary to give effect to the laws requiring the Congressional elections, the governor has withheld such proclamation, and, it is understood, has decided to refer the subject for decision to the representatives of the people of that State.

The reasons of the failure to elect members of Congress at the last general election, having been sufficiently and it is hoped satisfactorily explained, you will see the necessity of making provisions for that purpose during your present session. Under the new act of apportionment, which is herewith transmitted, Michigan is entitled to three representatives, and, while I shall concur with you and give my assent to such a law as you may pass providing for their election, either by general ticket or by districts, yet I cannot but repeat the views expressed in my last annual message, that the latter mode better comports with the true principles of a representative government. The members of the senate represent the states, while the members of the house were designed more particularly to represent the people, and their election by districts seems best adapted to secure that object.

By a joint resolution, passed at the last session of the legislature the law was suspended which authorized the payment of a salary to the reporter of the decisions of the supreme court and of the court

of chancery. The incumbent of the office of reporter, has, however, continued to discharge its duties, and has prepared and now has ready for publication, the decisions of the court of chancery made to the present time. Of the decisions of this court, about three hundred pages have been printed, but the remainder cannot be published without legislative aid. All the present justices of the supreme court, have furnished to the reporter their written opinions in cases decided by them previous to the January term of 1842, which, together with the opinions now in the hands of the late chief justice for revision, will make a volume of reports of that court.

It seems to me that the best interest of state requires the decisions of its courts to be published, and that much other printing is now required which is of less importance and less beneficial. Indeed I consider the reports of decisions which give construction to the statutes as important as the statutes themselves, and as necessary to be distributed among the citizens of the state for their information and guidance. Besides it is confidently believed that if such reports were judiciously prepared under well digested regulations of law, the proceeds from their sale would nearly, if not altogether, reimburse the expense of their publication.

The present judiciary system, will probably engage your attention, and how far it should be altered or modified depends upon you to decide. On the upright administration of this department of government, in a great measure depends the enjoyment of our rights as citizens, and even the permanence of our free institutions. If our rights of person and property were subject to the caprice of a weak or a wicked judiciary, little else would be left worth preservation. Robbery, imprisonment, and murder committed under judicial forms, strike at the root of liberty, and no state can be happy in which they are committed with impunity. In appointments to judicial stations, above all others, reference should only be had to purity of life, competent abilities, and fitness of character. No one should aspire to, or accept such a station, who is not conscious of his qualifications, and determined constantly to devote the whole energies of his mind, to a proper discharge of its duties. More depends on the character, ability and devotedness of the judicial officers appointed, than on the system under which they act. No perfection of system can supply the want of industry and competency. The system adopted in a new state like Michigan of course must have reference to the number of its population and to its condition generally. It may not be advisable to establish, and the people may not be able to sustain the most perfect system that could be devised and which would be best adapted to the wants of a state like New York, with two millions of inhabitants and resources in proportion.

It may well be doubted whether the wants of the people demand, or whether the population or finances of the state warrant, at this time, the organization of the supreme court with separate judges whose duties shall be exclusively to decide issues of law. Too small a portion of their time would be occupied, and their offices would be too nearly sinecures. The discharge of duties upon the circuit, by a constant and beneficial exercise of the mind, better qualifies a judge for the performance of duties in the supreme court. The present system may, however, be improved by incorporating into it some of the features of the *nisi prius* system if not by adopting it altogether. More of the issues of law should be sent to the supreme court, where such issues more appropriately belong, and where their decision can be more satisfactorily made. Important questions of law cannot with profit be discussed or decided at the circuit; authorities are not usually accessible and time can seldom be spared to make satisfactory investigations. The business of the circuit, being limited to the trial of issues of fact, would be transacted with greater dispatch, and with a consequent saving of expense to the people. The supreme court whenever in session, may perhaps with advantage set for the whole state. The whole subject commends itself exclusively to your careful attention.

I have caused to be selected the greater portion of the 500,000 acres of land relinquished to the state by the act of Congress of September 4, 1841. Selections have been made in each of the several land districts of the state, but above three-fifths of the whole are situated in the valley of Grand River and in the country immediately north of that stream. As the agents appointed to make these selections have not yet made their final reports, the sufficiency of the appropriation for that object cannot at present be ascertained. It is, however, proper to advise you, that as the appropriation of last year was made from the internal improvement fund, to the credit of which nothing remained, I have found it necessary in some instances, to draw from the contingent fund, such sums as were required to defray the necessary current expenses of those employed in selecting the lands. Without this resource the work could not have progressed, and the object to be accomplished was deemed of sufficient importance to warrant the adoption of this course. Explorations have been carefully and extensively made, and it is believed the lands selected are desirable as well for their location as for their superior quality.

Among the duties incident to your present session will be that of providing for the disposition of these lands. The establishment of a land office at the seat of government or at some other suitable place in the state, is suggested as a measure worthy of your consideration.

It is believed that the duties of a fiscal character now devolving on the superintendent of public instruction may, with advantage, be transferred to the person entrusted by law with the superintendence and control of the office proposed. Indeed, all the lands of the state whether held in fee or in trust, may there be made subject to sale or such other disposition as the Legislature, from time to time, may direct.

The price and terms of sale you alone can determine. Some locations on account of water power or other local advantages, of course, must be more valuable than others, and for this reason the lands should be offered at auction to the highest bidder before they are subject to private entry. The evidence of the domestic indebtedness of the state, should in all cases be received in payment, and the price should not be fixed so high that injustice would be done the public creditor who might be willing thus to receive satisfaction for his claims, nor so low that the state would receive an inadequate consideration in the exchange. Justice to those portions of the state, contiguous to the lands selected, also require their early disposition at a fair and just valuation.

Care should be taken to protect the public treasury by requiring the officer, who is authorized to receive the proceeds of sales, frequently to pay over the receipts, and by providing such other appropriate checks upon his proceedings, as will insure, without delay, the discovery of any default or omission of duty enjoined by law. Considerations of economy and safety may, perhaps, afford sufficient reasons for requiring the Secretary of State and the State Treasurer to perform the duties of the office proposed to be established in addition to the duties now required of them by law.

In accordance with the provisions of "An act relative to the State Salt Springs, and the lands granted for the use of the same," approved February 16, 1842, I have caused to be surveyed and laid out into lots, suitable for the manufacture of salt, so much of the lands adjoining the salt springs near Grand River as, it was believed, would soon be required for public use. Dr. Houghton, the State Geologist, under whose direction the necessary surveys have been made, has not yet made his report, but as soon as the same shall be received, a copy will be laid before the legislature. The surveys would have been made at an earlier day but from a hope that the completion of the improvement in progress would show the supply and quality of water obtained, and consequently afford some guide in regard to the extent of land required. The well has been sunk nearly 800 feet and the water discharged is equal to 200 gallons per minute. The saline qualities of this water, however, are not at present such as afford satisfactory assurance that salt can be manufactured from it extensively or with profit. Dr. Houghton is endeavoring by the sinking of tubes to shut off the fresh water and to ascertain the true saline qualities of the spring and the quantity

of water it will produce. The result of his experiments cannot of course be foreseen. The works of Mr. Lyon in this vicinity of those belonging to the state are in successful operation.

By the terms of the act of Congress relinquishing to the State the salt spring lands, the legislature is inhibited from selling or leasing them at any one time for a longer period than ten years except by the consent of Congress. If this restriction be regarded as obligatory upon the state, a large portion of the lands will be of little use.

The legislation of last year on the subject of banks and of currency has been salutary in its influence. The numerous bankrupt institutions, that had previously inundated the state with their irredeemable and worthless paper, have ceased to exist, and their assets, when any could be found, have been put into the hands of receivers. The remaining banks have maintained specie payments and have ceased to issue notes payable elsewhere than at their counters, or in other commodity than gold and silver. It is proper, however, to inform you that the Attorney General, at my instance, has made thorough examination into their condition, and while he reports that nothing has been discovered that need give alarm to the bill holder or other creditor, such examination did not afford him entire satisfaction with regard to their management; but as a disposition was evinced to apply a speedy remedy to the evils complained of, and as the public seemed not to be endangered, he deemed it within the scope of his authority to afford reasonable time for that purpose. Banking institutions and all other incorporations, while the execution of the laws is entrusted to me, will be required in their action to conform to the provisions contained in the acts of their incorporation, and every departure, not authorized by law, will be deemed a violation of charter and forfeiture enforced.

The officers of the Farmers' and Mechanics' Bank refuse to submit that institution to the examination of the Bank Commissioner. It is worthy of your consideration whether such modification of its charter should not be made as will make it subject to investigation and examination in the same manner as other banking institutions.

If stockholders, directors and other officers, were by law prohibited from receiving loans and discounts from the banks under their control, and at the same time made personally liable for all their debts, a portion at least of the evils incident to the banking operations would be remedied. Some of the motives for obtaining bank charters and bank stock would be removed, and less bank paper would be issued without a sufficient specie basis. So well am I convinced that such a law would be salutary in its influence, that I have no hesitation to recommend it in addition to the restrictions now imposed upon banks. No injustice would be done to individuals, while the safety of bill holders would be greatly increased. In partnerships for other business each individual

partner is liable for all the debts of the association, and no sufficient reason is perceived for exempting the members of a partnership for banking from a similar liability. Banks should also be prohibited from issuing at their counters or otherwise putting in circulation bank notes other than their own.

Acts of incorporation are grants of exclusive privileges and should be given, if at all, with a sparing hand. Those which authorise the exercise of banking powers are most liable to abuse. Public good is always the pretext under which they are asked, but in the exercise of the franchise when granted, public good is no longer considered. In such applications impulses of patriotism are less the motives of action than the promptings of individual interest.

If banks, as they profess, were really money lending institutions, their usefulness would be less questionable. Every stockholder should be a money lender to the amount of his stock. Unfortunately, however, banks are controlled more by borrowers than lenders. Their capital should be exclusively specie; but that is a commodity little used for such a purpose. Their issues of paper, for the most part, have no basis but fiction, and until an efficient remedy can be found for this evil, so fatal and yet so universal, the public will be subject to loss by the frequent failure of banks.

The property of a people consists in the productions of its industry. Banks and bankers do not increase those productions. The officers of banks contribute nothing to the wealth of the State; their object is to live upon the industry of others. They are not a producing, but a consuming class, and the tendency of all just legislation is to reduce this class to the least possible limit.

The intent of a republican government is that each individual without molestation shall enjoy what his industry has produced. The object of our fathers of the revolution, in the struggles which they endured, was the establishment of individual rights to the exclusion of privilege and monopoly. The principles of just and equal rights and consequent popular liberty were by them fearlessly asserted in that immortal document, the declaration of independence, and, under all circumstances, maintained until opposition ceased to be made. Principles, thus hallowed, should be preserved in their purity, and exclusive privilege, if conferred at all, should only be conferred when imperiously demanded by public good. Applications for individual aggrandizement, though urged under pretexts of patriotism, should meet only rebuke at your hands.

By the constitution of the state, it is made the duty of the legislature to provide by law for organizing and disciplining the militia, and particularly to provide for the efficient discipline of the officers, commissioned and non-commissioned. Perhaps no other subject, coming within the scope of your duties, will be more difficult of adjustment than this, or

about which exists opinions more variant, or more difficult of reconciliation. The legislature has hitherto postponed a revision of the laws upon this subject, more perhaps from causes adverted to, than from a conviction that such revision was not required. The existing laws in regard to the militia were mostly passed previous to the organization of the state government, and, as under such circumstances might be expected, in many instances are inapplicable, of difficult construction, and often contradictory in their provisions.

I am fully aware of the repugnance that, to a great extent, exists in the public mind against such an organization of the militia as, in giving it effect, will require of the citizens attendance upon trainings and reviews and subjection, at stated times, to strict military discipline. If, however, a well organized and disciplined militia be necessary for the preservation of the just rights and liberties of the people, it is your duty to provide for its maintenance and improvement.

If its moral influence, as well as its physical power, be important to the preservation of the body politic, then patriotism requires all good citizens to lend their aid in giving it efficiency. If it be a system that is essential to the perpetuation of free institutions, it deserves our fostering care. In the old world the people are not allowed the possession of arms, and it is worthy of remark, that among the first amendments to the constitution of the United States, was one which declared that the right of Americans to bear arms, should never be infringed, and that a well regulated militia was necessary to the security of a free state.

From the efficient manner in which the duties of the offices of Adjutant General have been discharged, and from the assistance and co-operation of other officers, considerable progress has been made in the organization of the militia, during the past year; but from impediments encountered, among which not the least is the imperfect legislation upon the subject, that organization is far from being complete.

I herewith transmit the report of the Adjutant General, and commend it to your attentive consideration. I am particularly impressed with the justness of the remarks it contains upon the subject of inadequate compensation for the services required of that officer.

The whole number of militia enrolled and mustered, including officers of all grades, musicians and privates, 47,050, of which, however, only 20,673 were duly returned according to law. The necessary returns have been made to the general government, to ensure the due quota of arms to which the state is entitled.

Without some appropriate action during your present session, by which necessary facilities may be afforded, the entire organization of the militia cannot be effected. But from the hope of an immediate revision

of the laws, the officers, who have the subject in charge, would long since have abandoned the undertaking. The situation of the state bordering upon the territory of one of the most powerful kingdoms in the world, seems to require fit and proper provisions for its defense, on which reliance might be placed in case of attack. Common prudence should admonish us to provide for safety when danger is far away. I, however, advise that whatever plan you adopt, you impose the least possible burden upon the people, consistent with the provisions of the constitution and the object to be effected. Encouragement should be given for the formation of volunteer companies, by shortening the period during which their members are liable to perform military duty, or in such other method as you may deem just and proper.

By a joint resolution, approved February 4th, 1842, the legislature proposed an amendment to the constitution, by which, with specified exceptions, every law authorizing the borrowing of money, or the issuing of state stock, is required to be submitted to the people at the general election then next to be held, and be approved before the same shall take effect, by a majority of votes given on the question of its adoption. This proposed amendment, as required by the constitution, was duly published for three months, previous to the last general election, and if two-thirds of the members elect to each house of the present legislature approve the same, it will then be your duty to submit it to the people in such manner and at such time as you deem most appropriate.

In my last annual communication, the situation of the works of internal improvement were described in detail, and the future policy of the state, in regard to their further prosecution, explicitly pointed out, and without reserve recommended.

The legislature, at an early day of its last session, by a joint resolution, required the acting Commissioner to forbear entering into any new contracts or arrangement involving expenditure of money not then already contracted to be expended upon the works of internal improvement; and consequently the operations of the board during the last year have been, in this regard, restricted to the carrying into effect contracts that had been previously made. Expenditures have been made under such contracts on the

Detroit and Grand River Road	\$2,714.93
Improvement of Grand and Maple Rivers	870.26
Northern Rail Road or Turnpike	2,013.05
Clinton and Kalamazoo Canal	538.28
Southern Rail Road	53,824.24
Central Rail Road	110,584.77

Making a total expenditure the last year of \$170,545.53

Of the works of the state, the Central and Southern rail roads only yield a revenue. The receipts on the former during the year ending Nov. 30, 1842, were in all \$436,895.33, of which \$73,819.37 was expended for repairs and running the cars, leaving \$63,075.96 net profits. Since the 8th of April last, when the present acting Commissioner took charge of the works of internal improvements, embracing a period of less than eight months, the whole receipts amount to \$114,302.74, of which during the same time was expended \$42,225.82, leaving the sum of \$72,076.92 net profits. This road during the year has been finished and in use between Detroit and Jackson, a distance of only about eighty miles, and the net earnings for that period have been about six per cent. on its original cost. The expenditures for construction, since the last report of the board have been restricted to that portion between Jackson and Marshall, and which is now so far advanced that it will be ready for the iron early in the spring.

The receipts on the Southern rail road for the year past were \$15,710.52, which have been expended in repairs and for running the cars. The value of this road, however, cannot be estimated by the amount of revenue it has hitherto produced. It has only been used between Monroe and Adrian, a distance of thirty-six miles. At Monroe, its eastern termination, difficulties have existed tending to diminish the business of the road and consequently its revenue to the State. The road was originally constructed to a point where the ship canal then in a state of forwardness, was to terminate. A failure to complete the canal rendered the eastern termination of the road inaccessible to vessels; and La Plaisance bay rail road, which though it terminates at a point accessible by vessels, and is connected with the southern road, was so defective in its original construction and is now in such dilapidated condition, that a locomotive engine cannot with safety pass over its track. These inconveniences are likely soon to be removed by the completion of the ship canal. If however, this work be retarded, the La Plaisance bay road should be put in such repair as will permit its use with locomotive power. The extension of the road to Hudson, fifteen miles west of Adrian, which is the termination of the Erie and Kalamazoo railroad, and a removal of the obstacles to a convenient transshipment at Monroe will, in a great measure, obviate competition and secure to the state a revenue more proportionate to the cost of construction. The usefulness of the southern road, as well in regard to the income to be received by the State, as to the facilities to be offered to the southern tier of counties, so much depends upon the certain, free, and unrestricted accessibility of vessels of all classes to the point designated as its eastern termination, that it is well worthy of your inquiry whether some appropriate enactment may not be required to secure more effectually, so desirable an object. No information is within reach of this department sufficiently

authentic to warrant any express recommendation, and for your guidance you must rely on knowledge of the subject that may be communicated from other sources.

By a joint resolution approved February 17, 1842, the board of internal improvement were authorized to pledge, for a term not exceeding five years, the net proceeds of the Southern railroad for the purchase of iron necessary for its completion to Hillsdale. The board have used every exertion on their part, but have been unable to obtain the iron on the terms prescribed. A quantity of iron sufficient for about ten miles, found in possession of the state and not required for immediate use, has been put upon this road, by which means, with the use of a few miles of wooden rails, it will hereafter be used with locomotive power between Hudson and Monroe, a distance of fifty-one miles. The whole track is now prepared for the iron to Hillsdale.

For a more detailed account of the works of internal improvement, you are respectfully referred to the annual report of the board. With the views presented in that report I generally concur, and recommend the same to your careful consideration.

With regard to the future policy of the state on this subject, I entertain the same views that were communicated to the legislature in my last annual message, and which I now repeat. The completion of the plan of internal improvement, as originally projected, can no longer be hoped, at least for many years to come; and, therefore, the present action of the legislature, having in view its further prosecution, should be restricted to such portion of the system, as will yield the greatest revenue to the impoverished treasury of the state, and at the same time, afford facilities to the greatest number of our citizens. The first money that can be made available for that purpose, should, I think, be applied to the purchase of the iron necessary to complete the Central road to Marshall, and the Southern road to Hillsdale. Thereafter accruing means will be expended with greatest advantage to the state, in the further construction of the Central road west of Marshall.

The indebtedness of the state on account of the five million loan, and the loan of a hundred thousand dollars each to the Ypsilanti and Tecumseh railroad company, and to the Marshall and Allegan railroad company, for which consideration has been received, as ascertained by the Auditor General and State Treasurer, under the act of February 17, 1842, and the joint resolution of the same date, amounts to \$2,342,960.24; and taking this sum as the true amount due on account of those loans, our entire indebtedness is as follows:

For loans above named.....	\$2,342,960.24
General fund bonds.....	100,000.00
University bonds	100,000.00
Detroit and Pontiac railroad bonds.....	100,000.00
Penitentiary bonds	60,000.00
Delinquent tax bonds payable in New York.....	31,000.00
Palmyra and Jacksonburg railroad bonds.....	20,000.00
Interest on the above to January 1, 1843.....	236,524.75
Delinquent tax bonds to counties.....	109,245.67
Warrants on general fund.....	17,489.26
Warrants on internal improvement fund.....	262,372.69
Other warrants	1,998.97
University fund	4,520.67
Primary school and interest funds.....	38,434.99
Scrip	110,787.00
<hr/>	
Total debt of the state.....	\$3,535,334.24

Since the close of the last session of the legislature, information has been received by the State Treasurer, that enables him to furnish nearly a complete list of the holders of the bonds of the state now outstanding, and to discriminate those who have paid a consideration. The substance of that information is contained in a communication from that officer to me, of the date of the 6th of December last, and which is herewith transmitted. By that communication it will be seen, that of the bonds of the five million loan, \$3,855,000 is yet the property of the Bank of the United States, hypothecated, however, on terms not fully transpired, to various houses in Europe, of which a list is given, together with the amount and description of the bonds that are held by each. The circumstances of the hypothecation warrant the belief, that the equity existing between the state and the bank, has been in no way affected by that transaction.

While our relation to our constituents makes it our first duty to protect their interests, we are equally bound to do justice to the public creditor of the state. Every just claim should be acknowledged and means of payment provided with the least possible delay. That state which resorts to its sovereignty to avoid pecuniary obligations, of which the justness is not denied, while it does not cancel its indebtedness, sets an example that tends directly to subvert all government. By the same rules that bind individuals, should states regulate their action; the same moral obligations that require in individuals the observance of good faith, require also its observance on the part of sovereign states. Michigan, while the virtue of her population remains, will never refuse

acknowledgment of her just debts nor fail to make payment when the means are within her power. True it is that circumstances have rendered it impossible, for the time, to meet with promptness all just claims upon her treasury; but no disposition has ever been evinced by her constituted authorities to do injustice. Present inability and consequent temporary delay, should not be construed into refusal or wilful neglect. The works of internal improvement, constructed with the proceeds of the loans for which the state is indebted, and its other property, are offered without reserve, in liquidation of its indebtedness; not, however, as a tender, but as an assurance of good faith, satisfactory it is hoped, to those who are disposed to await returning ability on the part of the state, and as the only means within our control with which to satisfy the claims of such as, without regard to circumstances, demand payment at the present time. And while at all times Michigan has so sincerely manifested an ardent wish to fulfil her engagements and preserve her plighted faith inviolate, I regret that it is not in my power to lay before you some just and equitable proposition from the holders of the bonds of the state for which no consideration has been received, and which every principle of justice requires to be surrendered.

By the act of February 11, 1842, the several railroad companies were authorized to discharge their liabilities to the state, on account of the loans contracted in their behalf, by a return of the bonds issued, or the payment into the treasury of an equal amount of other state securities. None of such corporations have, however, availed themselves of this provision, nor have they in any case provided for the interest that has accrued on the several loans negotiated for them by the state.

Of the whole indebtedness of the state, as shown above, \$544,849.25 exclusive of interest, is due to our citizens, the counties and the school and university funds. This domestic indebtedness, the payment of most of which was never intended to be delayed, should be cancelled as soon as possible, and in such manner as will satisfy all interested. The amount due the counties will be mostly paid by offsets for taxes, and that due the education funds, as has already been intimated, may be retained by the state on payment of interest. The warrants drawn against the internal improvement fund, being the greatest item, and nearly one-half of the domestic debt, and which is now most depreciated, it is believed, may be soon paid by the proceeds of the sales of the state lands and of the assets of Michigan State Bank, or by an immediate exchange, at the option of the creditor.

The scrip was issued on account of the works of internal improvement and should properly be redeemed by that fund; but as by the law authorizing its issue, it was made receivable for all taxes and dues to the state, it has been redeemed in part by almost every fund

created by law. It will of course be receivable for sale of state lands and no further legislation on the subject of scrip is deemed necessary unless it be thought advisable to prohibit its re-issue altogether. Nearly one-half of the amount outstanding was redeemed during the last year, and without further action of the legislature, the remainder will soon be absorbed. Its re-issue for any other purpose than now authorized by law, should not be allowed. Beyond question of doubt, it is precisely that species of currency which, by the Constitution of the United States, the States are prohibited from issuing, and I should deem it my duty to withhold my approval from any bill authorizing the issue of further sums or the reissue of the present scrip beyond the requirements of the law by which it was created. Besides the objections of a constitutional character, the impolicy of resorting to paper issues for temporary relief has been so clearly demonstrated, by lessons of the past, that such a measure should never receive your sanction. The proposition to fund the scrip now outstanding, however desirable such a measure might be, is not believed to be feasible as sufficient inducements cannot be offered for its surrender.

The collateral securities taken in 1840 from the Morris Canal and Banking Company, should be surrendered on the adjustment of the five million loan, as contemplated in the act of February 17th, 1842, and any sums that, in the meantime, may be realized from them should be accounted for to the parties in interest. The nominal amount of these securities was \$621,000, and at the time they were obtained were estimated by the late Treasurer, who procured them in behalf of the State, to be available for at least half a million of dollars. From information, however, more recently obtained, it is believed they are of but little value, and that, with the exception of the judgment of \$40,000 upon the fixtures of the Long Island Railroad Company, whatever else is realized must be obtained by expensive proceedings at law. The late State Treasurer, as appears by his report, deposited these securities for safe keeping in the hands of an attorney in New-York, to whom, for his assistance in obtaining them, he had paid a thousand dollars. For safe keeping eighteen months, that being the time they remained in his possession, this attorney charged the State at the rate of a thousand dollars a year with fees in addition for all services actually performed; and though during that period he claimed, in his account presented, to have been a special agent of the State in attending to its interests and making negotiations in relation to claims assigned, yet he neglected to make investigation into the state of the securities, or to give any satisfactory statement respecting them, for the reason, principally, as appears by his letter on file in the office of the State Treasurer, that he had no funds to meet the expense. They have since been deposited in the hands of

Messrs. Lee, Dater & Miller, a responsible mercantile house in New-York, who will receive any payment that may be offered, with no other expense to the State than reasonable compensation for services rendered. The direction of the legislature is requested in regard to the course to be pursued with these assets.

From the assets of Michigan State Bank the trustees have collected in state securities \$29,641.71, and have obtained lands in settlement with some of the debtors estimated to be worth \$12,075.50. A large amount of these assets before their assignment to the State, had, for the purpose of collection, been put into the hands of two gentlemen, partners in the profession of law, who now under pretext that injustice has been done that institution by enactments of the legislature at its last session, refuse to account to the trustees or to pay over any moneys by them collected. Proceedings have been instituted and are now pending in the court of chancery by which the legality of their refusal will be tested. These assets amounted nominally, at the time of the settlement with the bank, to above \$630,000, but it is believed, that, with the best possible management, the amount to be realized will be comparatively small. The report of the trustees is herewith transmitted.

There is now due the State Treasury from the several counties \$112,409.81, of which \$58,296.07 is for assessment of 1842. There is now remaining due in the Auditor General's office for unpaid taxes the sum of \$138,225.87. The amount due the primary school interest fund remains in the Treasury on deposit.

The above together with the lands already mentioned and the revenue of the Central and Southern Railroads, constitute all the resources of the State from which the income can be expected the ensuing year.

The entire expense of the State government, during the year ending Nov. 30, excepting expenses of the State prison, amounted to the sum of \$45,640.76.

I herewith transmit the first annual report of the board of Auditors appointed under the act of the 14th of February, 1842, and which contains a statement in detail of their proceedings during the past year.

I invite your attention to a thorough examination of the situation of our finances. A state can never be truly prosperous while its finances remain in an uncertain and embarrassed condition. Expenses should be incurred for necessary objects alone, and the strictest investigation made into the justness of all claims that are presented for your allowance. As a great part of the expenditures for the support of the state government are made in payment of the members of the legislature or for printing and other objects incident to its session, you will, I doubt not, so direct your labors that while you will not act with precipitation or pass enactments crude and undigested, you will at the same time, with

a view to diminish the burdens upon the people, bring your session to a close at as early a day as is consistent with the public good and a proper dispatch of public business.

In connection with the subject of our finances, I deem it my duty to call your attention to the unseated and unpatented lands within the limits of the state. The quantity and value of this domain, and a due regard to the rights of Michigan as an independent state, seem to demand at least an inquiry into the right of its fee, exempt from taxation, as claimed by the general government.

The states, under compact of the federal constitution, are more properly confederated sovereignties than integral parts of a central government. The present confederation differs little from that formed before the adoption of the constitution, except in the enumeration of powers, and the certitude with which they are delegated.

The states then are sovereign, and one of the most essential attributes of sovereignty in a state, is its right to possess all waste and unpatented lands within its limits, and to dispose of the same at will. This right is not only claimed and exercised in regard to wild and unoccupied lands, but in regard to those occupied and improved, when the proprietor dies without heirs recognized by law, or when, from any cause, no claimant can establish a legal title.

The sovereignty of the original states conferred the title by which they held the public lands within their limits and why should not the same efficient cause produce a like effect in the new states? The independence of the one class is, in all respects, as perfect as that of the other. Congress may admit new states, but it can superadd no conditions. The constitution makes no distinction in regard to their rights, and none can be made by other authority.

Congress has, however, exacted from the new states, as a condition of their admission, a conventional acknowledgment of the proprietary interest of the general government in the public domain, to their own exclusion. This is at least an indication that the general government has not full confidence in its title by reason of any constitutional provision; for a right conferred upon that government by the instrument from which it derives its existence, requires no additional sanction to give it validity; and such an acknowledgment exacted as the price of admission from a state, not yet a member of the Union and when no other of its acts would be recognized as legal, would be void for duress, if it were not void for violation of the constitution. Congress cannot bargain with the states for their reserved rights.

Conceding, however, that by the terms of their original grant, and by the second clause of the third section of the fourth article of the Constitution, the fee of the public lands is secured in perpetuity to the gen-

eral government, then we may well inquire what impediment exists to prevent their unrestricted taxation by the states.

The right to assess and levy taxes, is an attribute of sovereignty, and without its exercise no government could exist. The states would be neither sovereign nor free, if they did not possess the power to levy all needful taxes for their support. No authority but the federal constitution can restrict them in the exercise of this power; and where, it is asked, with most emphatic meaning, is to be found in that hallowed instrument, the provision that takes from a state the right to tax all lands within its limits? If the clause of the Constitution adverted to confers the title upon the general government, the sovereignty of the states yet remains undiminished in regard to the right of taxation. No constitutional inhibition can be pretended, and the right has never been surrendered by Michigan, since she has been an acknowledged member of the Union.

I have much confidence in the correctness of the views here briefly presented, particularly those which relate to the right of taxation; yet, as a different doctrine has so long prevailed, and as the new states have so long acquiesced in the claims of the general government, I am prepared at this time to recommend no definite action in regard to the subject. It is of deep concernment to the state, and requires mature and deliberate consideration. No step should be hastily taken, and none that it would be found necessary to retrace.

The Geological and Topographical survey of the State, upon the plan originally proposed, has been steadily progressing and the field work has been brought to a close. The original plan of organization for the completion of this work was such that a large amount of the labor, which in the surveys of other states has been performed by assistants, was here imposed upon the person to whom was entrusted the charge of the work. For this reason a considerable amount of office work yet remains to be performed. The large amount of materials collected for the final report are yet to be arranged, the analysis of minerals and soils to be finished, and the drafting of geological and topographical maps to be completed.

While it is desirable that the results of this work should be laid before the public at as early a day as possible, sufficient time should, nevertheless, be allowed for the digestion and compilation of the final report and for drafting the necessary maps and diagrams.

The publication of the topographical maps of the state and of the counties, as required by law, was suspended in consequence of the embarrassments of the treasury, but has recently been resumed by the geologist, and maps of the several counties will be speedily, laid before the public.

If the commencement of a geological survey of the state was now the question presented for consideration, I should have no hesitation in recommending its postponement; and whilst I think the survey now in progress was prematurely undertaken, yet as it is so nearly brought to a close, true economy seems to require its completion.

During the year ending October 31st, 1842, fifty convicts were received into the state prison, and during the same time four escaped, one was killed in his recapture, one died, nineteen were discharged by expiration of sentence, two were pardoned by my predecessor and two by me, and at that date eighty-seven still remained. The whole value of labor performed by convicts during the year, is estimated by the agent at \$9,127.04, and he is of opinion that the entire yard wall and other necessary improvements in the prison, may be completed by the labor of convicts during the present year, without appropriation from the legislature. After the completion of the prison, it is hoped that the progress, will be sufficient to defray the entire expense necessary for safe keeping and maintenance of the prisoners.

The recent numerous disasters upon the lakes, involving the loss both of property and life, affords, perhaps, a sufficient reason for calling your attention to the situation of our harbors. Michigan, being almost entirely an agricultural state, pays more than a due proportion of the revenue of the government, and yet, with a greater extent of navigable coast than any other state in the Union, the amount expended within her limits for the improvement of harbors, has been comparatively small. The value of property lost upon our shores within the last few years, for the want of sufficient harbors, probably exceeds the amount necessary for their entire construction. A proper representation of the facts to Congress, may perhaps induce that body to take the subject into favorable consideration.

JOHN S. BARRY.

March 8, 1843

From *Journal of the Senate*, pp. 376-379

To the Senate:

I herewith respectfully return without my signature to the Senate in which the same originated, a bill entitled "an act to amend an act entitled an act to incorporate the stockholders of the Michigan Insurance company of Detroit, approved March 7, 1843."

Since this proposed enactment was submitted to my consideration, duties incident to the close of the session have so far occupied my time, that I have not found sufficient leisure to do more than make a brief

statement of the reasons for withholding my approval, and which, as by the Constitution required, I now transmit to you.

The original act of incorporation as it appears by its preamble as well as the general tenor of its provisions, was intended solely to confer upon the company the right of making insurance, and they could legally exercise no other franchise. The amendment proposed contemplates to superadd the power of banking, without the necessary and indispensable addition of capital for the purpose. By the provisions of the seventh section of the original act as proposed to be amended by the bill, the company would be authorized to make insurances without restriction in regard to terms, and without limitation of amount, upon vessels, freight, and goods; and for the payment of losses insured on policies of insurance, and the redemption of bills and other liabilities of the company as a banking institution, one and the same capital is liable. It appears to me this use of capital for two distinct objects, no wise connected with each other, would be unwarrantable and dangerous. Banking alone has heretofore been supposed to yield a sufficient profit on the capital invested, but this bill proposes to add that of insurance also; and in the same proportion that it increases the profits of the stockholders, it decreases the security of the creditors of the institution.

The personal liability of the directors and stockholders under the 4th section of the bill, extends only "to notes or other evidences of debt now issued, or that may be hereafter issued," and not to the debts of the company generally. In case of insolvency they would not be personally liable for losses on policies of insurance, nor to depositors, nor to any similar class of creditors. Their liability would not be that of copartners for all debts contracted by the company, but be confined to a particular class of creditors, who, in case of insolvency would be provided for, to the prejudice of other creditors, out of the assets of the institution, by which means the directors and stockholders would be enabled to save themselves harmless. Experience teaches us such would be the case, if we may judge of the future by the past.

It may be said that it is not the intention of the company to do an insurance business. If this should be conceded, it would obviate the objection but in part. The depositors and other like creditors should be protected as well as the bill holders. But from the past conduct of the company we have no good reason to suppose that they will not exercise all of their corporate rights if they can thereby promote their interests. They have not hitherto been scrupulous in adhering strictly to their charter, but have claimed and exercised powers in no way conferred upon them. It would therefore be idle to suppose they now would refrain from doing what they have a right under their charter to do.

Neither the original act nor the bill before me fixes the rate of interest

which the company may lawfully claim on loans and discounts. This is unprecedented, at least in this State, and I believe in every state in the Union. Under the general law regulating the rate of interest, supposing it to be applicable to incorporations, where no special provision has been made as in a case like this, ten per cent interest may be taken.

The fifth section of the bill makes it the duty of the directors annually, or when required by the Legislature or Governor, to furnish a statement under oath or affirmation of the directors of the company in which shall be set forth the condition of the institution, and its books, papers and vaults, are at all times to be open to the inspection of a committee of the Legislature. There is however no provision authorizing the Attorney General, who is by law constituted the bank commissioner, to examine into its affairs. Though the bill would probably be subject to "an act to create a fund for the benefit of the creditors of certain monied corporations," approved March 28, 1836, yet, to avoid all question of doubt, a clause should have been inserted, expressly authorizing the acting bank commissioner at all times to examine its condition.

There is no provision prohibiting the company from paying out at their counter or putting into circulation the bills of other banks.—It has long been the practice of these institutions in order to obtain a circulation at a distance, to make exchange of paper, and one to pay out the notes of another instead of their own; when this is done the institution forgetful of the duty it owes to the public, prostitutes its power to the cupidity of its stockholders. It puts into circulation a currency which it is not bound to redeem, and if the bank whose bills are used for that purpose is at a distance, as is usually the case, a depreciated currency, or a currency not equal to gold and silver at the point where issued, a currency with which a draft or bill of exchange cannot be purchased from the very institutions instrumental in giving it circulation, on terms as favorable as with specie. In my opinion no bank should be incorporated with the power to practice this abuse on the community.

By the second section of the original act the capital of the company is authorized to be \$500,000. Neither the original act, nor the bill proposing to amend it, provides for its payment by installments. The original act seems to require its payment at the time of subscribing; and by the twelfth section, one-half of the amount subscribed might be secured on real estate. Whether this stock has all been taken or not, no where appears. The petition of the company to the Legislature does not show that it has. If it has not, justice requires that books of subscription should be opened anew, and such persons be allowed to subscribe as might wish to have an interest in the institution. There is no reason why the present stockholders should be allowed to reap all

the advantages, if any, to be derived from giving them a bank charter, in addition to their present charter for an insurance company.

The eighth section of the bill provides that a majority of the stockholders, at a meeting to be called for that purpose, shall give their assent to it before it shall become a law obligatory upon the corporation. It may well be questioned how far it is in the power of the Legislature to make their stockholders who refuse their assent, liable individually for the debts of the institution. It seems to me that the consent of stockholders holding a majority of stock, at the least should have been required.

Other objections of minor importance might be urged, but I have not time to name them, and those already given appear to me sufficient reason for withholding my signature to the bill.

JOHN S. BARRY.

1844

January 1, 1844

From Joint Documents of the House of Representatives, pp. 1-3
Fellow Citizens of the Senate and House of Representatives:

The people of the state by their unsolicited suffrages having called me to discharge the duties of Chief Magistrate for another term, I appear before you to take upon myself the oath required by the constitution. Their approbation of my official acts during the term now brought to a close, and this renewed manifestation of their confidence, expressed with an unanimity scarcely to be expected in political contests, impress upon my mind the most lively sense of gratitude, which no language can adequately express. In assuming again the responsibilities of the highest office in the gift of the people of the state, I can only promise that my humble abilities shall be taxed to their utmost extent to promote the public good and to preserve inviolate the constitution and laws.

The experience of every year adds confirmation to the belief that man is competent to the government of himself, and that republican institutions, above all others, are best adapted to the promotion of humane happiness. Sometimes, it is true, the ardor of a free people, excited by mistaken views, and for a time disregarding the control of reason, may be exhibited in acts that merit condemnation. But no government has been found competent to prevent improper ebullitions of deceived and misguided public opinion, nor indeed at all times to confine the popular will within legal restraints. In our own happy union, where the laws emanate from the people, and are designed only to promote public good, instances of their violation more seldom occur, and popular commotions are by far less frequent than in aristocratic and monarchical governments.

With us the people are secured in the certain enjoyment of all their rights, and consequently they have an interest in the preservation and perpetuation of our free institutions. They seek no essential change, because no change can be hoped that would improve their condition. Under other systems, life, liberty, and property are often subject to the caprice of irresponsible rulers. The people have no effective voice in the government, which, as it oppresses rather than protects their interests, they little care to preserve. They seek a change because no change can be for the worse. Hence the frequent conspiracies to overthrow governments of the old world and to erect on their ruins institutions more free; whilst in our own country, ruled by more beneficent laws, no attempt, worthy of mention has ever been made to effect a change by violent means. A republican government is supported not by military array,

but by the effections of the people; and the duty of a republican Chief Magistrate is to give effect to the popular will constitutionally expressed.

The religious freedom secured by the benign influence of a free government is a blessing not of minor importance. No conformity to a given creed is requisite to secure our civil rights, and no religious test is required as a qualification to office. Experience happily proves that neither morality nor religion suffers by leaving free the human mind to choose for itself in matters pertaining to divine truth. Whether a government can be sustained without a conformity in religious faith is no longer a problem unsolved. The revolution achieved by our fathers, which released the body from the grasp of tyranny, is the more important and the more beneficial for having also set free the mind from the shackles it had endured for ages.

Our own state, with the benefits of republican institutions, possesses fertility of soil and salubrity of climate. Her position, too, surrounded by large inland seas, affording unequalled facilities to commerce, enhances the value of her lands and adds to her importance in the confederation. If now she occupies a secondary rank, the time is fast approaching when she will scarcely be inferior to any of her sister states. Her resources are vast and need only an adequate population to ensure their development. Nature has been bountiful, and, with a prodigal hand, bestowed upon us the elements of inexhaustible wealth. It is our estimable privilege to improve to our use, what is thus placed within our reach.

The progress of Michigan has hitherto been unequalled. For the last ten years her increase in population and wealth has been in a ratio greater than that of any other state. Though, for a time, her prospects seemed obscured, the thick cloud is now dispelled and the obstacles removed that impeded her march onward to prosperity.—The paper money bubble of former years has burst, and the mania of speculation has subsided. It is true the ruin has been great, and the desolation wide spread. States, as well as individuals, have been brought within the vortex; yet, the lesson taught will long remain, and the evils suffered will serve as a warning for all future time. Men no longer seek or expect to make fortunes in a day. They look to industry and economy as affording the only sure means for the acquisition of competence or wealth.

To you, gentlemen, the chosen representatives of the people, charged with the important functions of legislation, I look with confidence for co-operation and support in all proper efforts to promote the welfare of the state. Without your guidance and aid, utterly indeed, should I despair in view of the magnitude of the high duties entrusted to my charge. Where errors have been committed, let us take measures to prevent their recurrence;—where abuses exist, let us apply the proper correc-

tive;—and where a departure from republican principles is ascertained, let us at once retrace our steps.

It remains, fellow citizens, that, acknowledging our accountability to that Supreme Being, who holds in his hands the destiny of nations, we fervently supplicate him to enlighten our minds and direct our counsels.

JOHN S. BARRY.

January 1, 1844

From *Joint Documents of the House of Representatives*, pp. 4-24

Fellow Citizens of the Senate and House of Representatives:

Since the adjournment of the last legislature a kind and beneficent Providence has continued to bestow upon us his manifold blessings. Abundant harvests have rewarded the labors of the husbandman—agricultural industry has been extended—our surplus productions enlarged—our imports diminished—our exports increased—and our population greatly augmented.

For these and other numerous mercies, let us unite in rendering thanks to the great Giver of all good, and humbly ask a continuance of his divine protection.

The assemblage of the Representatives of the people, invested with the sovereign functions of legislation, is an important occurrence. The welfare of the state, in an eminent degree, depends upon the result of their deliberations, and every step in their proceedings, however remotely bearing upon the interest of the state, is regarded by the public with exreme interest.

I am sure, however, I need not acquaint you with the responsibility you have assumed as legislators for the people, nor remind you that their dearest interests are, for the time, committed to your keeping. You enter upon the execution of your high duties, I doubt not, duly impressed with their importance; and as your measures are characterized by wisdom and justice, so shall they exert a beneficial influence upon the interests of the commonwealth.

At your present session but few subjects of a general character will require your consideration. Changes in existing laws should not be made for slight cause. Legislative acts should be passed with much and careful deliberation, but when once adopted, they should be permanent unless considerations of public good clearly and positively demand their modification or repeal. Complaints are often made, and not without just cause, of the evils resulting from the too frequent alteration of our statutes.

A joint resolution was passed February 4, 1842, proposing an amendment to the constitution, to the effect that every law, authorizing the loan of money by the state, shall specify the object for which the money is to be appropriated, and before it takes effect, shall be submitted to the people for rejection or approval. This resolution having been approved by two-thirds of the members of the last legislature, and by a large majority of the people at the late election, has thereby become operative as a part of the constitution. The report of the state canvassers, showing the vote upon the subject, will be laid before you.

Another joint resolution was adopted on the 6th day of February, 1843, proposing a further amendment to the constitution, to the effect that the general election shall be held on the first Tuesday of November in each year, and but one day. This resolution is referred to you, and, if approved by two-thirds of the members elected to each house, must be submitted to the people at such time and in such manner as you may prescribe.

The amount received into the treasury the last fiscal year, to the credit of the common school interest fund, was \$19,418.39, and during the same period. \$20,890.09 was distributed for the support of common schools throughout the state.

The amount received to the credit of the university interest fund, was \$7,284.32. Of this sum, \$6,000 was appropriated to the payment of interest due on the loan made for the university, and the remainder expended by the regents for the beneficial purposes of the institution. Of this fund, \$6,000, and the difference of exchange between Detroit and New York, is annually required to pay interest, and the balance, under existing circumstances, cannot be estimated much above \$1,000, which is insufficient to render the university, in any considerable degree, useful, and scarcely sufficient to continue it in operation. You will, therefore, see the necessity of adopting measures, at the present session, for its relief.

Of the seventy-two sections of land, which constituted its endowment, about one-fourth part has been sold. The minimum price now fixed by law, is twelve dollars an acre; and, as this sum exceeds the present value of the unsold land, it will devolve on you to decide whether a reduction may now be made with advantage to the permanent prosperity of the university. Large quantities of other public lands are in market, and may be purchased at rates so low that sales of university lands might not be made, even at a minimum corresponding with their true value. On the other hand, the institution is now in its infancy, and the present use of the funds with which it is endowed, is required to ensure its permanence. The lands cannot be sold at their present estimated value for many years to come, and, in the meantime, the university may cease

to exist for want of adequate support. The subject commends itself to your serious consideration.

At the time of the adoption of the organic law of the university, its anticipated revenue was expected to be much greater than it has subsequently proved, and the legislature, actuated by a laudable desire to promote knowledge and extend science, offered, without charge, the means of a collegiate education to all the youth of Michigan. No fees for tuition were permitted to be charged to any student resident in the state. This was a liberal provision, but, unhappily, subsequent events render it uncertain whether the original design, so munificent and worthy of commendation, can be carried out to the full extent intended by its generous projectors; and for the removal, at least in part, of the pecuniary embarrassments of the institution, I would respectfully call your attention to the propriety of authorizing the board of regents to charge the students in attendance such reasonable fees for tuition, as, with other accruing means, will secure the services of the necessary professors and teachers in the various departments. If you should deem it expedient to confer this authority upon the board, I would respectfully suggest that while you fix a maximum which should not exceed the charge for similar purposes in other seminaries of learning, you leave to the regents a discretion in regard to the subject, and authorize them to make discrimination in the exercise of the power granted.

Five professors have been appointed of whom two only have entered upon the discharge of their duties. The number of students in the main institution is about forty. Branches at Tecumseh, White Pigeon, Kalamazoo and Romeo are continued in operation at an annual expense of two hundred dollars for each.

Since the issue of state scrip the sum of \$32,226.23, in that species of state indebtedness, has been received for sales of school lands, and the further sum of \$6,484.36 for the sale of university lands, which, amounting altogether to \$38,710.59, remains in the state treasury. As scrip cannot be re-issued but for claims against the general fund, the above sum should properly be considered as a loan and accruing interest paid thereon as upon other claims against the state.

In the disposal of school and university lands the installment required to be paid at the time of sale is insufficient to secure the state from fraud; and the authority vested in the commissioner of the land office to require, in his discretion, security for the payment of the remainder of the purchase money does not afford an adequate remedy. Numerous parcels of these lands, valuable mostly for their timber, have been purchased and the tenth part of their price paid by individuals whose only object was to appropriate such timber to their own use and protect themselves from prosecutions for trespass under pretext of ownership. The commissioner cannot know, except in extraordinary cases, the

design of applicants for the purchase of lands, and the state will be best protected by requiring a greater amount of the stipulated price to be paid at the time of sale.

The numerous duties imposed upon the commissioner of the land office render it difficult for him satisfactorily and with advantage to superintend the business of leasing the improved lands. It will be a proper subject of inquiry whether this duty may not with propriety be committed to the supervisor or other officer of the township in which the land is situated, under such restrictions and accountability as you may deem proper to impose.

The law on the subject of taxes should be modified as far as it applies to lands sold by the state, for which payment has only been made in part. In such cases the interest of the person who holds the certificate should be taxed as personal property; or if the land be taxed such interest alone should be sold for non-payment of tax and not the land itself.

A fractional section of land, containing about 514 acres, being part of the land granted for the support of the University, is situated on the Maumee river, near Toledo, and within the boundaries of Ohio. It is represented that this land has already been denuded of much of its valuable timber, and, for want of proper care, is constantly deteriorating in value. If you think its sale advisable a special act will be required to confer the necessary authority.

Should you deem it expedient to offer for sale the state building and Salt Spring lands, the terms and conditions should be fixed by law. The last mentioned lands cannot be sold or leased for a longer period than ten years without consent of Congress, though upon a proper representation, that body would probably annul the restriction.

I have received no official communication in regard to the State Salt Springs near Grand River. Information, however, deemed sufficiently authentic, enables me to state that the immediate prospect of manufacturing salt extensively and with profit is by no means flattering.

I have not yet been able as required by the act of 16th February, 1842, to purchase the lands adjacent to the State Salt Springs near the Tittabawassee river, and including, it is believed, a part of the improvements at that place. The State Geologist, by my request, has used all reasonable efforts to effect that object but as yet without success.

The amount already expended in the improvement of the State Salt Springs is \$35,970.16. The water hitherto obtained, not possessing saline qualities in a sufficient degree to ensure the profitable manufacture of salt, and the state having no further means at command, I respectfully suggest the propriety of discontinuing further expenditures for the present. Authority should be conferred, in that event, upon some

person worthy of trust to collect and place in store the machinery and fixtures belonging to the state.

At the public sales of lands for taxes in previous years, portions of such lands for want of bidders have been bid off for the state; and additional quantities at future sales will probably in like manner become vested in the state. As no law exists providing for the sale of these lands, you will see the necessity of making such needful provisions on the subject as will best secure the public interests.

Since the adjournment of the last legislature the Merchants Bank of Jackson has failed, and its assets gone into the hands of a receiver. The system of banking now in use is radically defective, and, though by judicious legislation, we may introduce salutary reforms, securing in a greater degree the public from loss, we can never hope effectually to correct its evils.

Among the reforms that may be properly introduced into the existing charters of banks, the addition of individual to existing corporate responsibility, is one which deserves your attention. It would be difficult to show a satisfactory reason why partners in a corporation should be exempt from liabilities, to which partners are subject in an association without corporate powers. Banks may also be justly restricted from making loans to their stockholders, and from issuing bank notes, other than their own, payable on demand at the place where issued. The safety of the public would also be increased, if banks were required to obtain the bills intended to be issued from some department of the state government, and, at the same time, to file such approved security therefor as would ensure their redemption, in case the corporation should fail or become insolvent.

Manufactories, sustained by the principle of protection, are monopolies not less obnoxious nor less injurious than banks. Their proprietors are alike supported and enriched by a tax upon the industry of others.

In England, the landholder asks protection by taxing the manufacturer; in the United States, the manufacturer demands protection by imposing a tax upon the farmer. In that country, the landholder claims the monopoly of supplying the manufacturer with bread; in this, the manufacturer asks the monopoly of furnishing the farmer with wares and merchandize. In neither case is there a community of interest. In England, the landholder cannot purchase the articles produced by the manufacturer, because of the extensive supply; nor, in this country, can the manufacturer purchase the produce of the farmer for the same reason. There, the corn laws oppress the manufacturer; here, a protective tariff oppresses the agriculturist.

In our own country one of the most usual arguments in behalf of a protective tariff is that of furnishing a home market to the farmer. To

demonstrate the unsoundness of this argument it is only necessary to refer to the statistics contained in the last census returns from which it will be seen that the agricultural productions of the United States so greatly exceed any domestic demand for consumption that the very idea of creating a home market is absurd. The surplus of the State of Ohio will more than supply the deficit in all the manufacturing states. What then is to become of the surplus of other states? The whole country being taxed to create this market a corresponding advantage ought at least to be shown. What then is that advantage? Does the farmer's produce bring more? No, because the supply at home being greater than the demand, its price is determined by what it will bring abroad. Indeed no substantial advantage to the nation can be derived from a market so limited that a single state will furnish a full supply. It would be idle to talk of an increase of manufacturers sufficient to consume the surplus produce of the country. In such an event where would their fabrics find a market? At home, the demand would bear no proportion to the supply and abroad, others would undersell.

The price of our wheat is not increased by a protective tariff—it will not bring a farthing more in the market, and yet for all manufactured articles we pay an additional price. The price of this great staple of the West at this moment is, and for all time past, has been fixed by foreign demand; and no doubt, will be so fixed for all time to come. The domestic demand has scarcely ever had a perceptible influence upon its value. And the very object of a protective tariff is to increase the price of manufactures. The protection to the manufacturer is a protection against low prices; and the excess of price obtained by reason of a protective tariff is a tax upon other classes.

The Supreme Court of the United States, at its last session, decided that a state cannot pass retrospective acts injuriously affecting the existing rights and relations of debtor and creditor. That clause of the federal constitution which prohibits a state from passing any law impairing the obligations of contracts, has been construed to restrain a state from so far changing the nature and extent of the remedy, upon existing contracts as thereby to repair the rights and interests of a creditor. While it is conceded that whatever belongs exclusively to the remedy may be altered according to the will of the state, yet it is held the alteration must not impair the obligation of the contract. That effect can be produced as well by acting upon the remedy as upon the contract, for the interests of the creditor will be equally injured, whether his remedy be rendered ineffectual, or the contract itself annulled. A state may properly regulate the proceedings in its courts—it may extend or shorten the time given for filing pleas or making defence—it may adopt a statute of limitations—it may exempt from execution a number of articles of prime

necessity, but it cannot abrogate a contract nor take away the remedy for enforcing it, nor so impair that remedy as to destroy its efficiency in securing vested rights.

Aside from constitutional considerations, laws retrospective in their character, and, unjustly effecting the rights of parties to antecedent contracts, are destructive of the best interests of society, because by the invasion of private rights, they weaken existing moral obligations. Government is designed to protect each individual in the enjoyment of what his labor has earned, and when it interferes in the business of the citizen, it departs from its legitimate sphere.

Stay laws, stop laws, suspension laws and relief laws are impolitic, unjust, and immoral in their tendency. They are adopted as temporising measures to ward off threatening evils, consequent upon our own improvidence, and yet they ever fail to effect the object designed. If they give relief to one class they bring distress upon another. If they enable one man to avoid the payment of his just debts, they at the same time deprive another of his vested rights. Besides, almost every person in society occupies the double relation of debtor and creditor; and as debtor, he cannot discharge his own obligations, because, as creditor, he is unable to enforce the contracts made in his favor on which he relies for resource.

All acts and parts of acts, retrospective in their character, and intended when passed to affect past contracts, so far as they come within the decision referred to, should be repealed; but so far as such acts were designed to be prospective and to affect future contracts only, and are therefore constitutional, although impolitic and unwise, they should not be repealed with blind and inconsiderate haste. Should you be of opinion that their modification or repeal is required, it will be a proper subject of inquiry at what future time such modification or repeal may best take effect consistent with public good.

A reasonable amount of property, consisting of the most needful articles, should be secured to each family in the state, exempt from execution. A difference of opinion may well exist as to the limit to which exemptions may be extended. It would be better to err on the liberal side and exempt too much, than too little. All property, beyond such exemptions, I have no doubt, should be subject to pay the debts of its owner.

The reports of the adjutant general and of the quarter master general, will be laid before you at an early day. The whole number of the militia of the state, including officers and privates, is 50,428, of which authentic returns have been made to the general government, in order to obtain our quota of the arms annually distributed. During the last year, arms, equal to 1,565 muskets, and estimated at about \$20,000, have

been received from the ordnance department of the general government. The report of the quartermaster general will show the manner in which a portion of them have been distributed, and the quantity still remaining on hand. Previous to the last year, Michigan had not received its quota since the Indian disturbance in 1832, when a quantity of arms, equal to 1,054 muskets, having been supplied from the arsenal at Dearborn to the militia mustered into the service of the United States, and not having been returned, was charged against the then territory, and ordered to be deducted from future apportionments. This charge has been set aside by order of the war department, and the arms furnished to the state. But for the imperfect organization of the militia since 1832, and the consequent impossibility of making accurate returns, the apportionment of arms since that time would have greatly exceeded the amount actually received.

The constitution of this state, as well as that of the United States, contemplates and requires an efficient organization of the militia. The laws of this state, on that subject, were mostly passed by the legislative council, under a territorial government; and, from their obscurity and inapplicability, do not afford to either officer or soldier a sufficient guide in the discharge of his duty. The attention of the legislature has frequently been called to the subject, but, from a difference of opinion, little or nothing has been done. The inefficiency of the existing laws has not been called in question, and the postponement of their revision has been caused wholly by attendant difficulties, which, I fear, have not yet been altogether removed. But the constitutional requirement will, I hope, induce you to take the subject under consideration, and, if you do not deem it advisable to adopt a new and more efficient system, that you will, at least, digest and perfect the details of that now in force.

The reports of the inspectors and agent of the state prison will acquaint you with the condition of that institution. During the year ending on the 31st day of October last, forty-three convicts were received, being seven less than during the preceding year. Since the last annual report one has died, three have escaped, eight have been pardoned, and twenty-four discharged by expiration of sentence. The number of prisoners remaining is 94. The whole value of the labor of the convicts is estimated at \$10,346.56, being an excess of \$2,346.56 above the amount drawn from the treasury. The earnings of the convicts have been applied to the construction of the prison and in rebuilding the principal workshop which was destroyed by fire during the season. The inspectors make favorable report of the management of the prison and speak in approving terms of the manner in which the duties of the agent and his subordinates are discharged. The inspectors also suggest the propriety of adopting measures that will prevent a competition between convict and free labor.

While at present such competition does not exist to an injurious extent, they anticipate the time when the improvements in progress being completed and the number of prisoners increased, a large amount of articles manufactured in the prison will be offered at prices less than the honest mechanic can afford, and advise that such a direction be now given to convict labor as will prevent a competition thus unequal and ruinous. The recommendation of the inspectors is well worthy and, I doubt not, will receive your careful consideration and, so far as consistent with the interest of the state, I have no hesitation in advising its adoption.

The geological and topographical survey of the state has, during the past year, been steadily progressing towards completion. With the exception of a small amount of labor in the field the work has chiefly consisted in arranging and compiling, for the final report, the large amount of materials on hand, and in drafting the state and county maps directed by the legislature to be published. That portion of the work relating to the lower peninsula is nearly completed, but much of that relating to the upper peninsula yet remains to be done.

In addition to its legitimate duties this department has, by the direction of the legislature, furnished the state land office with the township maps required for its use.

The state and county maps, directed to be published, have nearly all been drafted, and the state map together with the maps of fourteen counties have been placed in the hands of the engraver. The engraving of four of the county maps has been completed and the maps received. In consequence of delay in the engraving of the state and remaining county maps, they will not probably be received before the opening of navigation in the spring. The maps of the counties are prepared in pursuance of an act approved March 28, 1840; but it is respectfully suggested as worthy of your consideration whether under present circumstances their publication, in cases where the engraving has not been commenced, may not with propriety be suspended, as it is believed their sale will be limited, and the expense incurred must be defrayed mostly by the state, from a treasury that cannot well bear additional burdens.

It is desirable if it can be accomplished to take advantage of the surveys about to be carried forward by the United States, in the mineral district of the upper peninsula, for the purpose of perfecting the geological surveys in that district. If this can be effected it is believed that a more perfect geological map may be made, than is to be found in any other state and that without any additional expense.

A part of the final report of the State Geologist will be ready for publication during the present year and an appropriation will be required for that purpose.

The report of the Board of Internal Improvement will make you acquainted with the progress made in the construction of public works,

the amount of income received, and their condition generally. The disadvantage consequent upon the inability of the state to pay ready money for work and materials, is felt with full force at every step.—If, therefore, the works have not advanced so rapidly towards completion, as the public had hoped and expected the causes of delay were such as the board could not control or remove.

By the act of 21st February, 1843, the board were authorized to purchase railroad iron and spikes sufficient to complete the central road to Marshall and the Southern road to Hillsdale and to pledge for payment the net proceeds of the public works.

The legislature in making this appropriation probably supposed that ample means were thus furnished for effecting the object intended; but the scrip then outstanding, which constituted a large portion of the receipts upon the works, greatly lessened the availability of their income. A great portion of the scrip issued had been withdrawn from circulation during the preceding year, and the opinion was entertained that the remainder would in like manner be withdrawn during the year then commencing and now brought to a close. The net proceeds of the works of internal improvement, however, constituted by far the greatest item of the sinking fund by which that species of indebtedness could be diminished, and the entire appropriation to another object would leave the scrip in circulation without any adequate fund for its immediate redemption.

Such was the state of things presented to the board under this appropriation. They were in doubt whether the legislature designed they should use in the purchase of iron all the net proceeds of the public works, including scrip, or only such portion as should be received in specie funds. With a view to promote what they deemed the best interests of the state, they determined to contract, if possible, for the iron on such terms as would enable them to pay for it without making sacrifices on account of the depreciation of scrip, and, though a longer time may in consequence be required for making the payment, they believe they have effected that object. The whole quantity of iron requisite has been contracted for and the greater portion of it received. The sum of \$24,333.13 has been paid upon the purchase without any sacrifice, a part having been received in a par currency and the residue obtained by an exchange with other funds.—The remainder of the net proceeds, being scrip, has been deposited in the State Treasury and credited to the sinking fund.

The Southern road is now completed and in use from Monroe to Hillsdale, a distance of 68 miles. As, however, by reason of unavoidable delays in the reception of the iron, the season was far advanced before its completion, and as the necessary locomotives and other stock could not

be obtained until some time afterwards, the amount of receipts the past year will not afford correct data on which to predicate estimates hereafter.

The construction of the ship canal at Monroe, conducted by private enterprise, was not so far advanced in the early part of the season as to afford to vessels navigating the lakes an accessible harbor; and on this account the business of the road was also diminished. I have heretofore had occasion to call the attention of the legislature to the importance of a safe and convenient harbor at Monroe. Several years ago the general government commenced the construction of a ship canal near the mouth of the Raisin which was designed for that purpose; but having abandoned the work the citizens of Monroe, at their own expense, have re-commenced it, and, notwithstanding the magnitude of the undertaking, they have made considerable progress. It is, however, only from an appropriation by Congress that the original design can be completed and the consequent advantages fully realized.

It has been represented to the board of internal improvement, by petitions numerously signed, that the interests of the state would be promoted by continuing the use of the branch railroad from the Monroe depot to La Plaisance Bay. The board, however, under the joint resolution of the 8th of March last, determined to relinquish to the proprietors of the latter place, gratuitously, or at a nominal rent only, the use of this road until the ensuing spring, with a view of referring the subject to the decision of the legislature. The road is deemed to be no longer of any benefit to the state, but it is represented that the owners of the warehouse at La Plaisance Bay, if granted its gratuitous use for a period of years not less than five, would make it tributary to the southern road, and thereby increase the business and revenue of the latter. The subject is of sufficient importance to merit the investigation of the legislature.

Under the disadvantages alluded to, the whole receipts upon the Southern road, during the year ending November 30, 1843, were \$24,064.50, which have been expended in running the cars, repairs and construction of road, and in repairs and construction of cars.—The Superintendent estimates the net proceeds to be \$7,906.85.

The Central railroad is yet completed only to Jackson, a distance from Detroit of eighty miles. The board, at the time of making their last report, hoped and expected to finish this road to Marshall before the close of the last fiscal year; but the extreme difficulty of obtaining timber for the superstructure, with the means put in their hands for the purpose, has caused great delay in the progress of the work. The grading can be effected for the pay offered, without much inconvenience, other than, perhaps, an increased price for the labor performed; but in the purchase of materials of every description, necessary to finish the road,

the board have encountered obstacles difficult to be overcome, and embarrassments of a most perplexing character. It should be borne in mind that, though the legislature has made appropriations, it has not, during the last two years, furnished a dollar in money towards the construction of any of our public works, and their accruing revenue had all been previously anticipated by the issue of scrip. The wonder then is, not that the board has done so little, but that it has been able to do so much.

The work upon the Central road between Jackson and Marshall, is, however, in such a state of forwardness that the board confidently believe they will be enabled to complete that portion of it the ensuing spring. The grading has also been let between Marshall and Kalamazoo, and considerable progress has already been made in the work. The principal engineer estimates that, to complete the grading and superstructure to the place last named, a further appropriation of seventy-five thousand dollars will be required, and nearly an equal additional sum to purchase the iron necessary to finish the road.

The whole receipts upon this road the last year, were \$149,986.51, of which \$74,960.20 was expended for repairs, and running the cars, leaving net profits, \$75,026.31. Of the net profits, \$32,074.21, being scrip, was paid into the treasury and destroyed; \$24,333.13 paid on account of iron, and the remainder expended in the purchase of new locomotives and in the increase, otherwise, of the stock of the two roads.

By an act of the legislature, approved March 1, 1843, the board of internal improvement were authorized to complete the Clinton and Kalamazoo canal between the villages of Rochester and Frederick. Accordingly, the board advertised for proposals; but it being made a condition that the work should not be let at a price exceeding the estimates of a competent engineer, and all the bids exceeding such estimates, the contracts could not be let, and the object of the act, consequently, could not be carried into effect.

The unusual high stage of water in the St. Joseph river, the last year, together with the unavailable character of the funds appropriated, have rendered it impracticable to make any improvement in the navigation of that stream.

The amount of unexpended appropriations from the internal improvement fund for which warrants will be issued, added to the amount of warrants already issued and outstanding, will equal the value, at the minimum price, of the unsold portion of the half million acres granted by Congress for purposes of internal improvement.

The revenue upon our public works the ensuing year will probably be greater than during the last, but the increase cannot now be estimated with accuracy. As already intimated the receipts upon the Southern

railroad will be increased, but from want of means the necessary repairs have not hitherto been made and the road, in consequence, being in a bad condition, will require the expenditure of large sums to put it in a proper state for use. The stock also is insufficient and a considerable portion of its income must be used in building cars and furnishing machinery, indispensably necessary. For these purposes the whole estimated revenue of the Southern road will be required the ensuing year. The receipts upon the Central road, when finished to Marshall, will be also increased; but, as additional stock will then be required, a large amount of accruing revenue must be expended in its purchase.

In the scrip outstanding and the late purchase of railroad iron the net proceeds of all our public works have been fully anticipated until the first day of July 1845; after which period by the second section of "An Act to liquidate the public debt and to provide for the payment of the interest thereon and for other purposes," approved March 8, 1843, such net proceeds are appropriated to pay accruing interest on the bonds and other indebtedness of the state.

The report of the Board of Auditors will make you acquainted with their proceedings, under the "act providing for the final adjustment of all unsettled claims for damages growing out of the internal improvements of the state," approved March 8, 1843.

The Board have allowed claims on the several works as follows:

Upon the Central railroad.....	\$3,377.31
“ “ Southern railroad.....	4,749.00
“ “ Clinton and Kalamazoo Canal.....	3,436.66
“ “ Grand River Canal.....	666.66

Making an aggregate of.....\$12,229.63

for which certificates have been given and warrants upon the internal improvement fund issued by the Auditor General.

The Board of trustees, to whom has been committed the charge of the assets of the Michigan State Bank, have made a report of their proceedings, which will acquaint you with the condition of that fund. You will see that, at every step, they have met with obstacles and been embarrassed by difficulties. The attorneys, with whom a large amount of the assets had been deposited for collection previous to the organization of the board of trustees, refused to recognize their authority or to render to them an account alleging that the late Auditor General was their client, to whom they would render such statement as he should require on payment of costs. Proceedings in chancery were instituted against those gentlemen and a decision obtained favorable to the State. An appeal has been taken and the matter is now pending in the Supreme Court.

A bill had previously been filed by the Bank against the trustees and the late Auditor General, asking a specific performance of that part of the argument, entered into between the Bank and the commissioners on the part of the state, which was rejected by the act of February 7, 1842. A decision in that case was also made favorable to the state and an appeal therefrom taken to the supreme court where the case remains undecided.

A portion of the assets in question were, for collection, put into the hands of the late Attorney General, who, at the expiration of his term of office, refused to surrender them to the trustees, but on condition that his claim upon the state for professional services, amounting altogether to \$4,947.49, should first be paid. This claim is in addition to his salary, traveling expenses, and other necessary disbursements, all of which have been duly paid. He presented to the last legislature a part of the above claim, which, by an act approved March 6, 1843, was referred to the state treasurer, auditor general, and secretary of state, who allowed that portion of it which was for disbursements, on account of the state, and rejected what was for services, believing that the salary fixed by law was the only compensation that could be rendered without a special enactment. He, however, alleges that the law, defining the duties of attorney general and fixing his salary, makes no mention of the services he has performed and for which he has made an extra charge. This argument, however just, can only be addressed to the legislature which alone has the power to make appropriations of money.

The duties of attorney general having greatly increased, I am of opinion that the salary allowed by law does not afford a fair compensation to that officer for the services performed, and I do not hesitate to recommend its increase by an amount that will render his compensation equal to that of other state officers. Indeed there might be propriety in making such increase retrospective as regards the late incumbent; but no officer, on the expiration of his term, can be justified under any pretext in withholding public property from his successor or from those to whose possession it is assigned by law, and it is well worthy of your consideration whether persons, so offending, should not thereby subject themselves to the penalty inflicted in cases of embezzlement from the state treasury or to the penalty for the unlawful use of public money provided in the act of February 10, 1842. The duties of no state officer are specifically enumerated in all their details, and it will be a dangerous custom to permit public agents to take the law into their own hands, and, under pretext of extra services, to appropriate with impunity public property to private use.

From the collateral securities, taken from the Morris Canal and

Banking Company, the sum of \$20,829.73 has been collected during the year, mostly from the mortgage upon the fixtures of the Long Island railroad company. The remainder of the securities are unavailable and deemed wholly worthless to the state.

The reports of the Auditor General and State Treasurer will make you acquainted with the condition of the finances of the state. To this subject your attention is particularly invited. The reports, it is believed, afford a full and accurate exposition of those important departments of government; but if you require further and more detailed information, it will be communicated on your requisition. The legislature cannot, with too much care guard the public treasury.

The whole acknowledged indebtedness of the state on account of the five million loan, including \$200,000 loaned for the Allegan and Marshall and the Ypsilanti and Tecumseh Railroad companies with the interest for which new bonds have been issued, will be on the 1st day of July, 1845, altogether.....\$2,987,005.27

The other outstanding bonds of the state are,	
For General fund.....	100,000.00
For penitentiary	60,000.00
For delinquent taxes (originally \$31,000).....	27,000.00
For University	100,000.00
For Detroit and Pontiac Railroad Company.....	100,000.00
For Palmyra and Jacksonburg Railroad Company.....	20,000.00

Total.....\$3,394,005.27

The above constitutes the whole indebtedness of the state held abroad, and for which bonds have been issued. The bonds for the sum first named include interest to July 1, 1845. On the general fund, penitentiary, delinquent tax and university bonds, the interest has been mostly paid to this time. On the remaining bonds, being for \$120,000 issued for the companies named, the interest since July 1, 1841, remains mostly unpaid.

In addition to the above; the outstanding warrants upon the internal improvement fund amount to \$342,441.29, and by appropriations already made, will be increased to \$570,000.00; for payment of which, with the interest that has and may accrue, the state has no sufficient resource except the unsold portion of 500,000 acres of land granted by Congress in 1841, and by which it is hoped they may be paid.

On the acknowledged bonds of the state, the annual interest payable after July 1, 1845, by the terms of the act of March 8, 1843, will be \$205,440.30; and if the warrants issued and authorized to be issued upon the internal improvement fund be not paid by the lands of the state, the annual interest will be little less than \$240,000.00.

The amount of scrip outstanding, besides interest, is \$73,563.00, which is liable to be increased \$24,330.78, the amount of unpaid warrants on the general fund, and will also be liable to be further increased by appropriations at the present session of the legislature.

About \$95,000 will be required to pay the balance due for iron, purchased by direction of the act of 21st February last, for payment of which the net proceeds of the public works are pledged.

The general fund bonds, penitentiary bonds, and delinquent tax bonds, mentioned above, are properly payable from the general fund, so called, being the fund created and kept up by the annual state tax, and from which the expenses of the state government are paid. Excluding the two former, due at a future period, and including the latter, now due, the following is a true exhibit of the liabilities and resources of the general fund, on the 30th day of November last:

Due to university fund.....	\$6,484.36
primary school fund	32,226.23
“ “ interest fund	7,216.63
purchasers at sales in 1840.....	513.50
for interest on general fund and penitentiary bonds.....	9,439.52
for delinquent tax bonds in New York.....	27,000.00
to owners of land for “surplus”.....	6,881.79
for delinquent tax bonds to counties.....	37,123.67
interest on tax bonds estimated.....	3,000.00
outstanding warrants on general fund.....	24,330.78
do do primary school fund.....	9,019.00
do do interest fund	80.50
Total.....	\$163,315.98
Resources.	
Cash on hand.....	\$39,352.55
Balance due from counties.....	29,155.05
Taxes and interest remaining uncollected in the auditor general’s office.....	172,492.40
	<hr/>
	241,000.00
Excess of resources.....	\$77,684.02

In addition to the actual liabilities of the general fund, above enumerated, may also be added the scrip in circulation, amounting, with the interest due, to more than the surplus of resources. The scrip is properly payable only from the net proceeds of the works of internal improvement; but, by special enactment, it is made redeemable by the general fund, and all sums so redeemed remain still a charge upon such proceeds.

The exhibit shows the state of the treasury at the close of the last fiscal year; but, as the taxes of the current year will not be collected till a future period, the expenses of the government to be incurred, not enumerated in the above liabilities, must still be paid from the above mentioned resources, which cannot be made wholly available for some time to come. So that, by reason of outstanding scrip, accruing expenses, and unavailableness of means, the treasury will not be able to meet its liabilities the present year. Hence, you will see the necessity of enforcing a strict economy in every department, and of limiting appropriations to the indispensable wants of the government.

In some parts of the state, complaints are made of the inadequate compensation of jurors for their attendance at courts. The fee bill adopted in 1840, fixed their fees at one dollar for each day's attendance upon any court of record, and six cents a mile for travel; the amount to be paid out of the county treasury, on the certificate of the clerk of the court. The act of March 9, 1843, in relation to the issuing and return of venires and payment of jurors, provides that each jury impannelled shall receive four dollars and fifty cents in each case, which, with travelling fees before allowed, shall be in full for the services of such jurors. It is understood that in some of the circuits it has been decided that the fees allowed by the last named act, were cumulative or in addition to those allowed under the former act, and in other circuits, that they constituted the only pay of jurors. A dollar a day for the attendance of jurors, is no more than an adequate compensation for their services, and it is worthy of your consideration whether the provision in the act of 1843, on the subject, should not be repealed, and that in the act of 1840, revived.

The construction of a ship canal around the falls of St. Mary was projected by the state in 1837, and appropriations in part made for that object. The required length of the canal is less than a mile and its cost estimated at \$112,544.80. Difficulties arising from the occupancy, by the troops of the general government, of a portion of the land through which the canal was to be excavated, prevented the commencement of the work at the time intended, and subsequent pecuniary embarrassments made it necessary for the state to postpone indefinitely the undertaking. Recent explorations warrant the belief that large portions of the upper peninsula are well adapted to settlement and cultivation—that its soil is fertile and its climate mild and salubrious. It is also believed that other portions are valuable for their fisheries and for their mineral wealth. The construction of the projected canal is necessary to the development of its resources; and should you believe the work to be national in its character, a representation to Congress of its importance may induce that body to take it in charge.

The general government from time to time has granted to the new states portions of the public lands to aid them in making internal improvements. Grants have been made to the states of Ohio and Indiana to aid in the construction of the Wabash and Erie canal and other public works, and to the state of Illinois for constructing a canal from lake Michigan to the navigable waters of the Mississippi. At the last session of Congress, a bill conferring on Michigan alternate sections of land in a strip ten miles wide on the lines of our most important public works, passed the Senate but was lost in the House.—Such a grant would be of vast importance to the State, and it is worthy of your consideration whether appropriate measures adopted by you might not aid in obtaining it. Justice requires that for the construction of works of internal improvement the same assistance should be extended to Michigan that has been conferred on her sister states.

JOHN S. BARRY.

February 3, 1844

From *Journal of the Senate*, p. 112

To the Senate:

I have the honor to acknowledge the receipt of the following resolution of your honorable body:

“*Resolved*, That the governor be requested to communicate to this Senate any information or any communication he may have received relative to the sale of the Frederick mill property, and whether any title to the said property has been made to the purchaser, and to transmit to this Senate a copy of any official report of the sale of said property, which may be in his office.”

In reply to the inquiries therein contained, I beg leave respectfully to inform the Senate, that, previous to the sale of the property mentioned, I never had any knowledge of the subject. A few days after the sale, I received from George F. Porter, Esq. of Detroit, a communication, of which a copy is herewith transmitted, in which he accused the state officers, and particularly Mr. Bell, of improper conduct. To this letter, from its censorious character and want of common civility, I could not reply nor otherwise communicate with the writer upon the subject. I, however, applied immediately to the officers of the state who had charge of the business, and was assured by them that the transaction had been, in all respects, fairly, honestly and legally conducted. In order, however, to be doubly assured that nothing had been illegally or improperly done, I directed that a statement of the whole

transaction should be submitted to the attorney general, who, as I was subsequently informed, decided the same to have been conducted in strict conformity to law.

No official report of the sale has been made to this office, and, consequently, no patent has been issued. I am not informed whether the commissioner of the land-office has given the usual certificate, nor have I any other knowledge of the subject.

JOHN S. BARRY.

1845

January 6, 1845

From *Joint Documents of the Senate and House of Representatives*,
pp. 1-18

Fellow Citizens of the Senate and of the House of Representatives:

During the year now brought to a close, Divine Providence has continued to extend to us its manifold blessings for which, with a due sense of our dependence, we should not be forgetful to render our thanks.

Few changes of importance have taken place in public affairs since the last annual session of the legislature.

In view of the fact that a commissioner has been appointed to prepare an entire revision of the laws, and instructed to make report of his labors at your next session; many subjects of general legislation, that otherwise might now require your attention, may perhaps with advantage be postponed.

By a joint resolution, approved February 6, 1843, an amendment was proposed to the constitution changing the time of holding the general election from the first Monday in November, and the day following, to the first Tuesday in November. The proposed amendment was agreed to by the last legislature by a majority of two-thirds of the members elected to each house, and was submitted to the people at the late election, under the joint resolution of January 27, 1844. As provided by the last mentioned resolution, it will be your duty to canvass the returns of the several boards of county canvassers and to declare the result. If the amendment has been adopted, of which there can be no doubt, further legislation will be required to make the existing election laws conform thereto.

By the third section of the fourth article of the constitution, you are required to provide by law for an enumeration of the inhabitants of the state for the present year. It is worthy of consideration, whether with small additional expense, other statistical information may not at the same time be obtained, that will be of much interest and value.

But little advance has been made the past year in the organization and discipline of the militia. There is a general repugnance among our citizens to the performance of military duty, and to subjecting themselves to the strict rules of military discipline, when patriotism does not seem to require such a sacrifice of time and individual comfort. The laws now in force upon this subject are not in accordance

with public sentiment; and their execution cannot well be enforced. An entire revision is respectfully recommended.

Among the alterations to be made I would suggest, as worthy of consideration, whether all musters of the militia in time of peace, for the purpose of improvement in military science, may not with propriety be abolished. The knowledge in that manner communicated, I am constrained to believe, is limited and inconsiderable, while the evils, resulting from such assemblages to the morals of the people, more than counterbalance any public good that can be expected from their continuance. It is believed that an organization compatible with the constitution dispensing with such musters, may be effected, which will be less burdensome, and at the same time, in case of need, equally efficient. The formation of volunteer companies and battalions should also be encouraged, by exempting their members from some portion of the public duties devolving upon citizens of the state, or in such other manner as you may deem equitable and just.

While the public arms that have already issued are, doubtless in most cases, safe from damage or loss in the care of the volunteer companies, with whom they are deposited for keeping and use, yet it seems to me that, at least for future issues, some additional guaranty should be required for their safe return when demanded by proper authority.

The reports of the Adjutant General and of the Quarter Master General, with the tables annexed thereto, will acquaint you with the progress made in the organization of the militia, and with the disposition of the public arms. The measures recommended by those officers are, in the main, judicious and such as seem required by the service. The whole number of the militia is 59,688, comprising nine divisions and forty-five regiments.

During the last fiscal year, the amount received into the treasury, to the credit of the common school interest fund, being the revenue of the common school fund for that year, was \$20,989.41 and during the same period \$28,076.06 were distributed in accordance with existing provisions of law for support of schools.

The revenue of the University fund, the last year, was \$9,703.52. In accordance with the provisions of "an act authorizing the receipt of obligations of this State in payment of University lands", approved Feb. 28, 1844, and of "an act for the relief of the University of Michigan," approved March 11, 1844; the indebtedness of the University, on account of the money borrowed for its use is reduced to \$60,787.52. This diminution of its debt, will greatly relieve the institution from its previous embarrassments.

I am not aware that any legislative action is expected or required at the present session, essentially altering the system of education, now

existing in the State. If any change be deemed necessary, it is believed that it should be restricted to the management of the funds devoted to that purpose. The strictest accountability should be required of all in any way intrusted with the sale of school and University lands, or with the investment of their proceeds. Losses in some instances have already been sustained, and the utmost caution should be observed to prevent their recurrence.

The number of students in the University is about fifty; and the number in its branches, though varying at different periods of the year, exceeds one hundred and fifty. The number of children in the State, between the ages of four and eighteen years, reported to the Superintendent of Public Instruction, is eighty thousand four hundred and seventy-five; and the number taught in common schools, seventy thousand two hundred and twenty-seven. The low standard of the qualification of teachers in these primary institutions, is found to be one of the greatest impediments to the advancement of education. The interest, however, that seems recently awakened, and the increased attention that is everywhere paid to the subject will, it is believed, correct this evil.

The banks yet remaining have, as the price of their existence, continued specie payments during the year; and what is equally gratifying and extraordinary in the history of our State for several years, the public have not suffered loss by bank failures or by the depreciation of bank paper. The losses, however, sustained in former years, as well by individuals as by the State itself, afford a sufficient warning against hasty and ill-advised legislation on the subject of banks, and against a multiplication of their number.

For the exchange of commodities gold and silver have been established as a medium on account of their scarcity and the impossibility of increasing excessively their amount. Banks are established for an opposite reason—because they supply an abundant currency, and are capable of increasing its quantity without limitation. A like anomaly scarcely exists.

Excessive bank issues may give a temporary and fictitious value to property; but neither paper money, nor yet the precious metals furnish the true standard of value. As labor produces all wealth, so labor alone supplies that standard. Commodities can only be estimated by the amount of labor required in their production. Gold and silver even are valued by the labor necessary to obtain them from the mines.

The States are interdicted by the Federal Constitution from coining money, emitting bills of credit, and from making anything but gold and silver coin a tender in the payment of debts. This wise and salutary provision embraces the whole subject of currency, and was

doubtless intended to secure to the United States a circulating medium consisting of the precious metals, to the exclusion of paper in every form.

The utter failure of bank paper to give that aid to the business of the country which its advocates claim to be its province to afford, aside from all other considerations, furnishes a sufficient reason against the increase of banks. To bank issues, as a measure of relief, recourse has so often been had without success, that confidence in their efficacy has long since been destroyed.

The field work of the Geological and Topographical survey of the lower peninsula of the State, has been brought to a close, and much has been done toward preparing the final report upon this portion of the work. The engraving of the illustrations, necessary to accompany the volumes when published, has been in progress during most of the year; but some further time will be required for its completion.

In consequence of the deficiency of means required to finish the surveys of the upper peninsula, with the same minuteness that they had been done in the lower, the State Geologist had determined at one time, to make the final report upon that part of the work in a more general manner; but during the past year, such a connection of those surveys has been made with the United States lineal surveys as will insure, without expense to the State, their completion in the most perfect manner. By this arrangement, the general government lends its aid in perfecting our Geological surveys. The practicability of the plan was fully tested the last season, and its utility satisfactorily established. The whole work is performed at the expense of the general government, under the direction of the State Geologist, pursuant to a contract made by that officer with the Surveyor General.

In addition to his ordinary duties the State Geologist has, during the year, furnished the necessary maps required for the use of the State Land Office, except maps of fractional school sections, for the procurement of which, a special appropriation will be required.

The number of prisoners in the State Prison at the end of the fiscal year, October 31, 1843, was ninety-four. During the year, terminating October 31, 1844, sixty-one convicts were received, and during the same period twenty-six were discharged by expiration of sentence; two were pardoned, one escaped, and four died, leaving an increase of twenty-eight in that time.

The expenditures the last year, in the convict department, for the payment of guards, the purchase of rations, wood, clothing, hospital stores, and other like necessary articles, amount in the aggregate, to \$9,673.31. For the payment of this sum, \$9,000.00 have been drawn

from the State treasury, and \$216.66 received from other sources, leaving a balance due the agent at the time of making his report, of \$456.65. The expenses of this department have increased \$854.22 during the last year by reason of the loss of materials by fire in 1843, and the increase of prisoners.

A large portion of the convicts are hired by contractors, who carry on in the prison various branches of mechanical industry. The amount received to the use of the State, for the services of those so employed the last year, exceeds \$5,000.00, and would probably have been much greater, but for the fire mentioned, which destroyed the workshops and materials collected for use. The amount received from this source including \$800.00 appropriated at the last session, has been expended in the further construction of the Prison buildings, yard-wall, and workshops. The estimated revenue from the same source, for the ensuing year, is \$6,500.00, and is deemed sufficient to defray the expenses of the improvements necessary to be made during that period.

That portion of the prisoners not hired by contractors have been employed under direction of the keepers, in various occupations, but mostly at work upon the improvements in progress.

In the above enumeration of expenses, the salaries of the officers of the Prison, and many other items of expenditure, are not included. The whole amount, for all purposes of the Prison, drawn from the treasury the past year, is \$15,715.34.

Among the prisoners are two females, who are reported to be confined in the County Jail, for want of proper apartments in the Prison.

Complaints have been made of the practice prevailing upon our frontier settlements, of selling spirituous liquors and other intoxicating drinks to the Indians. Existing enactments, prohibiting the traffic, are represented as being insufficient for that purpose, and serious difficulties are apprehended from its further continuance. The subject seems to require investigation, and will, I doubt not, receive such attention as you may find its importance demands.

The first volume of Chancery Reports, embracing all the decisions of the late Chancellor, has been published, and a second volume, including all the decisions of the present Chancellor, made previous to the commencement of the current year, is now in press and will be published the ensuing month. The first volume of the Reports of decisions, made by the Supreme Court, is also in the hands of the printers, and it is hoped, will be ready for delivery before the close of your present session. A second, and perhaps a third volume may be expected the present year.

I confidently anticipate, from the publication of these Reports, the most salutary results. A judicial construction will thus be given to

the statutes, and a uniformity secured in the administration of justice in the various circuits, and in courts of inferior jurisdiction throughout the state, which could not otherwise be obtained.

The report of the Commissioner of the State Land Office will inform you in detail of the business transacted in that department the past year.

Of the 500,000 acres of land granted by act of Congress, passed September 4, 1841, 45,429.97-100 acres were sold in the year 1843, and 80,840.86-100 acres in 1844, making in all 126,270.83-100 acres; and the whole sum received in payment for the same, was \$157,891.07, mostly in state warrants issued for purposes of internal improvements. The further quantity of 79,561.52-100 acres have been specifically appropriated, for part of which land warrants have already been drawn and for the remainder, such warrants will be issued the present year. The residue of the grant being 294,168.75-100 acres, still remains the property of the state, subject to the disposal of the legislature, liable, however, at any time, without further legislation, to be taken at its minimum price, for payment of all outstanding warrants, for whatever purpose issued and, after the first day of July next, also liable to be taken in payment of the bonds issued for interest under the act to liquidate the public debt, passed March 8, 1843.

A small portion of the lands yet remains unselected. Immediately after the grant was made the State Geologist designated certain important points in the upper peninsula, which he represented as very valuable, and advised their selection for the use of the state. The surveys not having been completed, I have not yet been able to secure the lands so designated.

The mode of leasing improved University and School lands by the aid of township officers is found, by experience, not to be beneficial, and it is recommended that exclusive authority upon the subject be again invested in the Commissioner.

A practice has been heretofore adopted of permitting purchasers of school and University lands to pay arrearages on parcels forfeited, at any time after forfeiture and before they were again offered at public sale. This practice having never been sanctioned by law, has been discontinued, and no redemption permitted after forfeiture incurred. The consequence, however, is that from ignorance of a change of the rule, or from inability to meet payments when due, several cases of forfeiture have occurred which, unless relieved by legislative enactment, will cause great hardship to individuals. I concur in the recommendation of the Commissioner that a general law be passed upon the subject, affording relief in the cases mentioned, and permitting the redemption of lands, hereafter forfeited, at any time previous to the next annual sale, by the

payment of arrearages due, and such penalty, in addition, as may be deemed appropriate and just.

The Report of the Board of Internal Improvement will acquaint you with the condition of that branch of the public service. In accordance with the provisions of the act of February 21st, 1843, iron sufficient to finish the Central Rail Road to Marshall, and the Southern Rail Road to Hillsdale, has been procured, and both roads completed to the places named. In effecting this object, besides the sums already paid, indebtedness, amounting in the aggregate to \$69,564.77 has been incurred, which now stands against the Board, and for payment of which the net revenues of all our public works are pledged.

The Central Road was finished to Marshall about the 10th of August last, and since that time has been in use between Detroit and that place, a distance of 110 miles. The total amount of receipts the past year was \$211,169.84; of which \$83,551.03, was for passengers, and the balance for freight. The whole expense of repairs and running the cars during the same period was \$89,419.51; leaving a net profit, according to the statement of the Acting Commissioner, of \$121,750.33. Of the net revenue \$25,345.41, have been paid into the State Treasury, \$57,424.53 paid for iron, and the balance, except about \$3,000 on hand, mostly expended in the increase of stock and further improvement of the facilities of the Road, in the construction of side tracks, and building a ware-house at Detroit. The Board estimate the receipts on this work the ensuing year, at \$275,000.00.

This road is also mostly graded from Marshall to Kalamazoo, a further distance of 36 miles, and will be ready to receive the iron on that part of it at an early period of the ensuing season. The Board would meet with but little difficulty in obtaining the necessary supply of iron but for the high price of that article caused by the tariff of 1842; the cost of the quantity wanted to lay the track between the places named being increased, in consequence, little less than \$30,000. It is confidently believed, however, notwithstanding its enhanced price, that the iron can be obtained without further legislative action upon the subject, and the road made available to Kalamazoo before the close of the current year. A further small appropriation of 20,000 acres of land is required for the erection of buildings at the several stations, and for construction of the necessary side tracks.

The whole amount of receipts upon the Southern Road the last year was \$60,340.51, being an excess of \$36,276.01, above those of the preceding year. The receipts were all required and have been expended in running cars, in repairs of the road, and in the further increase of stock; and a debt, previously incurred for like objects, estimated to be about \$10,000, still remains unpaid.

The Road being in a dilapidated condition at the commencement of the year, and its stock being insufficient, the expenditures that have been made were anticipated, and the Legislature, at its last session, advised of their necessity. The improvement of the harbor at Monroe, affording as it does, greater facilities to commerce, the present good condition of the road and the increased quantity of its stock, now valued above \$50,000.00, all warrant an estimate of receipts upon this work the ensuing year, greatly exceeding that of any preceding one; and it is confidently believed, that, besides paying current expenses, the revenue will be sufficient to pay a portion of the indebtedness contracted by the board for iron. The cost of iron purchased for this road under the act of February 21st, 1843, including two locomotives, was \$58,612.74, of which \$45,006.94, have been paid from receipts of the Central Road, and the balance, being \$13,605.80, remains a charge upon the future proceeds of the public works, and is part of the debt above mentioned. The Board estimate the receipts on the Southern Road at \$100,000 the present year.

Contracts for the completion of the Clinton and Kalamazoo Canal, between the villages of Rochester and Frederick, were made in the spring, in accordance with the provisions of the acts of March 1, 1843 and of March 2, 1844, at a price not exceeding the estimates of a competent engineer, and for a sum less than the appropriation made. In the progress of the work it has been found that, by reason of subsequent dilapidation, a greater amount of labor is required than had been estimated, and that, in consequence, the object of the acts named cannot be fully carried into effect without additional legislation. The contractors have, however, continued their work, relying on the legislature for recompense of their labor, by a further appropriation.

Contracts were also made, the last summer, for the improvement of the navigation of the Flint river, below the village of Flint. The unusual high state of water during most of the season, in all our rivers, afforded facilities for making the improvements required in this stream, which consisted mostly in the removal of the flood wood that had accumulated at various points; and the work has progressed to the satisfaction of the board, and its entire completion may be expected according to the terms of the contracts.

The necessary improvements in the navigation of the St. Joseph river, between Union City, in Branch County, and Sturgeon Lake, in St. Joseph County, being of the character required upon the Flint, have been made with advantage, the past season; but the improvements needed below that Lake, being such as can only be made at a low stage of water, have been necessarily postponed until the ensuing summer, when it is hoped that the causes of delay which have existed the last two years, will no longer prevent their completion.

I have so often and so fully stated publicly my opinions upon the subject of our Internal Improvements, that I need not, at this time, detain you with their repetition. I may, however, advert to one or two topics in this connection, which, from the prominence they seem to possess in the public mind, will probably be brought before you for consideration. The sale of the public works, for the outstanding bonds of the State, has been long a favorite measure with a portion of our citizens, and so favorably was it considered at one time, that the Legislature passed an act authorizing proposals to be received for their purchase. A bill for the same purpose was before the Legislature at its last session, which received the sanction of a majority in one branch; but creating a corporation and, consequently, requiring a two-thirds vote, it was lost, more, perhaps, from the difficulty of adjusting its details, than from objections to its main object. Another considerable portion of our fellow citizens, entitled to our confidence and respect, oppose the measure, as calculated in its results to affect injuriously the best interests of the State. In legislating upon subjects of such vast importance, especially when errors committed cannot be retrieved, it is desirable that as much unanimity as possible should prevail; and it is even better, sometimes, to postpone a favorite measure, where no considerable injury would be sustained by delay, than to urge its adoption against the known wishes of a large and respectable portion of the community. The legislature best know the wishes of the people upon the measure in question, and are alone competent to judge of its expediency.

If the public works should not be sold, the expediency of further prosecuting their construction, beyond points where ground has already been broken, will necessarily present itself for your consideration. On this subject, I have no doubt, that true policy requires the completion of the Central Railroad to St. Joseph, and the Southern, at least, to the navigable waters of the St. Joseph river; but to effect these objects time will be required and means also, which the State does not now possess. A full statement of the condition of our finances and resources is contained in another part of this communication, and on its examination, you will be able to judge of the present ability of the State to continue the public works, and to determine whether it is expedient now to appropriate the means at disposal to that object. Bills are understood to be pending before Congress, making further concessions of land to this State, for purposes of Internal Improvement, and hopes are entertained of their favorable consideration in that body; but it would be unwise to predicate action upon the expectation of grants, not actually made.

Should you find it inconvenient and judge it expedient now to undertake the further construction of the roads mentioned, it might not be

improper to enquire into the propriety of permitting associations of individuals to complete them from their present western terminations, if such associations can be found willing to assume the undertaking. In the grant of such authority, however, care should be had to guard the rights of the State, and secure its citizens from imposition and oppression. Provision should also be made, authorizing the State, if at any future time it should so elect, to take the works, by paying to their owners the cost of construction and a stipulated interest upon the investment.

The Reports of the Auditor General and State Treasurer will inform you of the condition of the finances of the State. The estimated value of the whole taxable property of the State in 1844, was \$28,554,282.32, and the State tax, being two mills on a dollar, was \$57,108.56. This sum, if collected and paid into the Treasury, would be fully sufficient to pay all expenses for support of the State Government, and also to pay accruing interest upon the General Fund and Penitentiary Bonds; but a considerable part of the taxes being assessed upon the property of non-residents, the consequence is that only a portion of the amount levied in any given year is made available at the time, and present wants can only be supplied by the tardy, and, in some degree, uncertain payment of delinquencies of previous years. The means of the General Fund, though diminished by the redemption of scrip issued for purposes of Internal Improvement, are yet sufficient to meet all outstanding claims against it; but money has not always been on hand for payment of claims on presentation, and, from necessity, recourse has been had in some instances to the re-issue of scrip, which under the law in such cases, creditors had a right to demand. In the further redemption of scrip the means of this Fund may be still further absorbed, and at some future period a deficiency, in consequence, may be found in the Treasury, which will cause much inconvenience and perhaps do injustice to the public creditor. In view of these facts, the adoption of some appropriate legislative enactment is respectfully suggested, calculated in its operation to prevent a contingency which, on its occurrence, would be likely to prove so injurious to public interests.

No financial measure could well have been devised which, not involving greater amounts, could have been more unfortunate or more injurious than the issue of scrip. Intended for a remedy of existing evils, it has proved most calamitous in its results, and affords another demonstration of the utter inefficiency of paper issues as a measure of relief. It renders inefficient every department of government, and its entire recall from circulation, at an early day, is required by every consideration of sound policy, and still more by imperative obligations arising from its unconstitutional character.

The whole acknowledged indebtedness of the State and its resources are exhibited in the following statement:

Funded Debt.

Due on bonds issued for five million loan, and for \$200,000 borrowed for Ypsilanti, and Tecumseh, and Allegan, and Mar- shall Railroad companies, including in- terest to July 1, 1845.....		\$2,990,000.00
Palmyra and Jacksonburg Railroad bonds	\$20,000.00	
Unpaid interest on do to Nov. 1844.....	4,900.00	24,900.00
	<hr/>	
Detroit & Pontiac Railroad bonds.....	100,000.00	
Unpaid interest on do to July, 1844.....	17,280.00	117,280.00
	<hr/>	
University bonds assumed by the state...		39,212.48
		<hr/>
		\$3,171,392.48
General fund bonds.....	100,000.00	
Penitentiary bonds	60,000.00	
Interest on do not called for.....	8,850.00	
Delinquent tax bonds.....	15,000.00	183,850.00
		<hr/>
Total funded debt including interest..		\$3,355,242.48

Unfunded Debt.

Internal improvement warrants outstand- ing	520,457.55	
Interest on do to Dec. 1, 1844, estimated..	50,000.00	
Land warrants outstanding.....	7,143.89	
Scrip	51,000.00	
Interest on scrip estimated.....	9,000.00	
Tax bonds to counties.....	12,591.00	
Interest on do estimated.....	1,409.00	
Warrants on general and other funds....	8,726.19	
Interest on do estimated.....	700.00	
Due for redemption and surplus money on account of tax sales.....	8,858.27	
Due principal of primary school fund...	51,779.00	
	<hr/>	
Total unfunded debt including interest	\$721,934.90	\$721,934.90
	<hr/>	
Total debt of the state including interest		\$4,077,177.38

Resources.

Central Railroad, cost to Dec. 1, 1844...	\$1,842,308.00	
Southern Railroad, cost to Dec. 1, 1844..	936,295.00	\$2,778,603.00
Ten per cent added for interest, paid during construction, and for other incidental expenses		277,860.00
Palmyra and Jacksonburg Railroad cost including interest		30,000.00
Locomotives and cars on Central Railroad	110,000.00	
Locomotives and cars on Southern Railroad	51,000.00	
Materials on other works.....	500.00	161,500.00
		<hr/>
Total value of railroads and fixtures at cost		\$3,247,963.00
Due from Detroit & Pontiac Railroad Company		130,000.00
Value of unsold Internal Improvement lands at a minimum price.....		467,500.00
Salt Spring lands, 72 sections at \$2 per acre		92,160.00
Taxes uncollected and cash on hand.....		179,000.00
Assets of Michigan State Bank and other assets estimated		33,377.00
		<hr/>
Total available resources of the state..		\$4,150,000.00
		<hr/>
Excess of resources over liabilities....		\$72,822.62

The debt due for iron and that incurred for expenses upon the Southern Railroad, both previously mentioned and amounting together to about \$80,000.00, are omitted in this statement.

The residue of the University bonds, being \$60,787.52, remains still a debt against that institution, from the funds of which both the principal and accruing interest will be paid, and is not, therefore, considered among the liabilities of the State.

In addition to the property mentioned above, the State owns the Clinton and Kalamazoo Canal, on which has been expended about \$375,000, and which is now nearly finished from Frederick to Rochester, a distance of about 16 miles. The work, however, without its further extension, not promising any considerable return for the investment made, has been omitted in the enumeration of the resources of the State as they now exist.

From the above statement it will be seen, that the resources of the State are about equal to its liabilities; but it is not to be concealed that our works of Internal Improvement, as a whole, have not, hitherto, afforded a net revenue sufficient to pay accruing interest on the debt incurred for their construction. This revenue has been constantly increasing, and promises still further to increase; yet the possibility of a permanent deficiency has caused considerable anxiety in the public mind. I may be permitted, therefore, in this my last annual message, to express my views upon the subject of the indebtedness of the State, and the measures of public policy required for the preservation of its plighted faith. Our indebtedness was incurred in past times of delusion, under an unfortunate state of popular feeling, produced in a great measure, by the pernicious influence of banks. By the excessive issue of paper money, a fictitious value was given to every species of property. A reckless spirit of speculation universally prevailed. All seemed to be deluded by deceitful visions of imaginary wealth. Industry and economy were disregarded, and for present means recourse was had to extensive credits and the pernicious system of borrowing. In the prosecution of visionary schemes for the acquisition of wealth, men did not consider whether the means were adapted to the end; a blind hallucination seemed to govern their thoughts, direct their actions, and lead them on to ruin, as willing victims of their own folly and misguided reason.

It is not surprising that a similar state of feeling should have been introduced into legislative bodies. If no undertaking was considered too great for individual enterprise, the ability of a State would, of course, be considered as boundless.

The first great error in State policy, committed in Michigan, was the borrowing of money. A State can seldom borrow with advantage to its citizens. Its only legitimate means is the taxes, levied for the support of its government. It should not be a money dealer, nor should it embark in any other business appropriately, within the sphere of individual enterprise. The second error of magnitude was in a measure, consequent upon the first, and consisted in projecting a system of improvements too much extended and wholly exceeding both the means and wants of the public. In extraordinary cases only, and when public good clearly demands it, should a State undertake the construction of public works, and then only when such works, from their magnitude, cannot well be undertaken by individuals and yet, when accomplished, will be of great public advantage and yield an adequate return.

Seeing now the errors of our policy and the evils resulting from a departure from correct principle, let us with the least possible delay correct the one by a return to the other.

Fortunately our temporary deviations, being timely discovered, have

not entailed lasting injury; their consequences, if not altogether averted, may at least be mitigated, and our reputation and integrity preserved. The energies of a young and growing State like Michigan are abundantly sufficient, without causing distress, and scarcely inconvenience, to restore order and efficiency to its finances, and, at an early day, to provide means to meet all just demands upon its Treasury. If the money we have borrowed has, in any instance, been misapplied or squandered, or if we have made unprofitable investments, the fault is our own; and those who at our instance furnished the means, can by no just mode of reasoning be made responsible, nor ought they to suffer loss in consequence. If we have in any degree failed to exercise a wise discretion and sound judgment, our obligation to our creditors are not thereby released, nor our liability diminished. Every citizen should bear in mind that the faith of the State is solemnly pledged to pay both principal and interest of the sums we have borrowed; and it should be the pride, as it is clearly the duty, of all cheerfully to co-operate in keeping that plighted faith inviolate.

Of the justice of the claims presented by the holders of certain outstanding obligations of the State, amounting, with interest, to about three millions, for which no consideration has been received, and which are not included in the above exhibit of our indebtedness, as I have not the means to judge, I do not here design to speak. The information, however, that has been received seems to warrant the belief that the equity, originally existing between the State and the late Bank of the United States, has been in no way affected by the transfer of the securities by that institution to their present holders. Of the justice of the indebtedness of the State, recognized and provided for by the acts of February 17, 1842, and of March 8, 1843, no doubt exists. I may be permitted to suggest as worthy of your inquiry whether the amount of damages claimed under the first mentioned act upon unpaid instalments of the five million loan, were not greater than would be demanded or paid, had the transaction occurred between individuals and been wholly of a private character.

Among the political topics of the day, none is more prominent or more important than that of a tariff. Though wholly national in its character, it is not, therefore, of less interest to the people of the State. No subject has ever been more involved in mystery or more misrepresented than this. In its discussion, ambiguous terms have been used, and the usual and true meaning of words have been perverted.

A duty, whether specific or ad valorem, on an article imported, is a tax upon the consumer of that article. This is a self evident proposition and requires no argument for its support. It follows of course that a tariff of duties on imports constitutes a system of taxation.

An article of domestic manufacture, similar to one charged with duty

when imported, is increased in price by an amount equal to that duty. This constitutes no inconsiderable objection to the assessment of taxes through the medium of a tariff. Duties imposed for the support of government, on articles imported, operate as bounties to the home producer of like articles, and thus render one portion of the people tributary to another. The tax paid upon the articles imported, it is true, goes into the public treasury; but the tax paid in the increased price of like domestic articles, goes into the pockets of the producer.

The general government is supported by taxes levied on imports, and American manufacturers, being chiefly the producers of articles thus increased in price, secure to themselves almost exclusively the advantages consequent upon such a system of taxation. In this incidental protection, as it is called, the public would, however, seem to be willing to acquiesce; but manufacturers, not satisfied with this advantage, are constantly demanding, and often obtain, special discriminations in their favor, by an augmentation of duties on particular foreign commodities, competing in the market with those produced by them; thus increasing the bounties they receive, for the payment of which all other classes are taxed.

The owners of manufactories, rather than those who do the work, are benefited by this system of bounties; and a protective tariff, in the common acceptation of that term, is a tax upon the industry of the country for the benefit of capital. This tax is greater than that levied for the support of government.

It is idle to pretend that articles protected are thereby rendered cheaper. This is contrary to all experience and all reason. Of all arguments upon cause and effect, if such assumption can be considered an argument, none can be more irrational and illogical. As well may he be said to buy cheapest who pays dearest. Protection is designed to increase prices, and it can have no other effect. None are more desirous of protection than those interested in the manufacture of protected articles, and to suppose them prompted by a benevolent regard for the interest of consumers, would be conceding to them a degree of philanthropy to which their real motives, it is believed, would give them little claim. The recent improvements in machinery, and its better adaptation to manufacturing purposes, have caused reduction in prices, and other like circumstances have contributed to the same effect. The competition, which it is contended that the tariff secures, will equally exist without it.

Duties on imports, being taxes upon the people, should be assessed with a view to their equal bearing upon all. Every branch of industry should be regarded with equal favor. No class should be exempted from sustaining its just share of the public burdens, nor should one portion of our fellow citizens be taxed to support another.

JOHN S. BARRY.

March 5, 1845

From Joint Documents of the Senate and House of Representatives,
Joint Doc. No. 13, pp. 1-3

To the Senate and House of Representatives:

The Michigan State Bank failed in 1839, owing to the state at the time of its failure about \$535,000, mostly for money deposited in its vaults.

In May, 1840, E. P. Hastings, Auditor General, Robert Stuart, State Treasurer, and Thomas Rowland, Secretary of State, acting as Commissioners under "an act authorizing the Auditor General, the State Treasurer, and the Secretary of State, for the time being, to settle with the Michigan State Bank," approved February 1, 1840, and "an act in relation to the Michigan State Bank," approved March 28th, 1840, received from the Bank for the use of the State, "an assignment of claims and property, amounting nominally, to \$633,576.98," and discharged the Bank from its indebtedness to the State. See House Documents for 1841, pages 107-8-9 and 10.

The assets assigned were so worthless, that with the best management and without drawback, the State would have realized from them but a small portion of its claim upon the Bank—the balance of that claim being a total loss.

The Commissioners above named, without any authority of law, further stipulated that the State should pay certain debts of the Bank and of individuals. The Legislature, by "an act to provide for the collection of certain assets, transferred to the State, and for other purposes," approved February, 27, 1842, confirmed the proceedings of the Commissioners, except so much thereof "as purports to bind the State for the payment or advances of money, whether for the purpose of discharging incumbrances, paying costs, or for any other purpose whatever, which portions on the part of the State were expressly rejected." See Session Laws of 1842, page 111.

The supreme court have decided that the legislature, by the act named, have confirmed all the proceedings of the commissioners, and that the provision of the act which purports to reject that part of the agreement requiring the payment or advancement of money by the state is void.

The supreme court have also decided that by the failure of the state to indemnify the Bank on a certain bond and mortgage given by the Bank, the assets assigned to the state have reverted to the bank, and have ordered the state officers, in whose possession the assets are placed by law, to deliver over the same to the trustees to be appointed by the court.

Though the assets are declared to have reverted to the bank the court have directed the trustees, after paying to the bank from their proceeds

\$10,743.99, that being the amount it has been demnified, to deliver over the residue, if any, to the state.

The Attorney General is of opinion that a further hearing cannot be obtained in any other tribunal.

The charter of the bank was repealed by an act approved February 16, 1842.

The original bill of complaint, on which the above decree was founded, was first filed by the bank in the court of chancery, and the chancellor dismissed the same for want of jurisdiction. The supreme court, to which the cause was carried by appeal, overruling the decision of the chancellor, took jurisdiction of the case and granted the relief sought by the bank from the state, of which the purport is stated above.

The exact value of the assets subject to the decree of the court can not now be stated, but it is the opinion of the state officers in whose possession they now are that if sold at once to the highest bidder for money, the sum obtained would scarcely exceed the amount adjudged to the bank; and yet with good management, if payment was received in evidence of state indebtedness, twice, and perhaps thrice that sum might be realised..

The court propose to appoint the State officers, now trustees for the State, to be trustees for the bank; not, however, in their capacity as State officers, but as individuals who, from their knowledge of the property in question, can better execute the decree of the court than others not possessing that knowledge.

The acceptance or rejection of the trust by the State officers presents a question that may be in some degree embarrassing; for if it be accepted its execution may require of them acts that individually and collectively they may think conflict with their duties designated by law; and if it be rejected the whole fund in other hands will probably be absorbed in liquidating the claim of the bank, leaving no residue for the State.

The attorneys of the bank, it is understood, are willing to accept an appropriation from the general fund for the amount mentioned above, payable with interest in four equal annual payments as a full satisfaction of the decree in favor of the bank against the State.

The direction of the Legislature is respectfully requested.

JNO. S. BARRY.

March 14, 1845

From *Journal of the House of Representatives*, pp. 405-413

To the House of Representatives:

I herewith respectfully return without my signature, to the House of Representatives, in which the same originated, "A bill to provide for the construction of a canal around Grand Rapids on Grand River in the county of Kent, and for other purposes." This bill proposes to appropriate for the construction of the canal, fifteen thousand acres of land, making the letting of the contracts imperative, and for the survey and improvement otherwise of Grand River, the further quantity of five thousand acres.

I also return in like manner, without my signature, "A bill making an appropriation in aid of the construction of a wagon road on the line of the Northern Railroad." This bill proposes to appropriate for the purpose named, fifteen thousand acres of land.

I also return in like manner, without my signature, "A bill making appropriation for the improvement of the Detroit and Grand River Turnpike." This bill proposes to appropriate for improvement of the road mentioned, ten thousand acres of land, making it imperative on the board of Internal Improvement, within one month, to appoint a superintendent, who is required under direction of the board, to contract for the improvements as soon as the estimates can be prepared.

I also return in like manner, without my signature, "A bill to provide for the extension of the Southern Railroad from the village of Hillsdale to the village of Coldwater or Branch." This bill proposes to appropriate forty-five thousand acres of land, and makes it imperative on the board of internal improvement to let contracts for grubbing, grading and bridging the road between the places named to the amount of the appropriation, with the proviso, that they shall be let in such parcels, and be finished at such times as, in the opinion of the board, will secure the greatest amount of work for the appropriation made.

I also return in like manner, without my signature, "A bill to provide for the extension of the Central Railroad from the village of Kalamazoo to the village of St. Joseph." This bill proposes to appropriate one hundred and forty thousand acres of land for grubbing, grading and bridging the Central Railroad, westward from Kalamazoo as far as the appropriation will complete the same. No provision is made for the superstructure.

I also return in like manner, without my signature, "A bill to improve the navigation of the Shiawassee River." This bill proposes to appropriate five thousand acres of land to improve that river.

I also return herewith, in like manner, without my signature, "A bill making an appropriation to improve the navigation of the mouth of

Galien River, and also in aid of the construction of a waggon [sic] road from New Troy to New Buffalo." The bill proposes to appropriate for both purposes, two thousand acres.

I have also this day returned, without my signature, to the Senate in which the same originated, "A bill for an appropriation to improve the Kalamazoo River." This bill proposed to appropriate six thousand acres for that purpose. Of this fact mention is here made, for reasons that will afterwards appear. A copy of this communication was transmitted to the Senate with the last named bill, as containing my objections to its passage.

The bills propose to appropriate in all, 243,000 acres, and, in most cases, the expenditure is made imperative upon the board of internal improvement.

At the present session, thirty thousand acres have been appropriated upon the Central Railroad and the Tecumseh branch of the Southern, as also a quantity sufficient to pay arrearages for work upon the Clinton and Kalamazoo Canal and to finish locking the same into the Clinton River, estimated by the engineer to require 12,000 acres. At the commencement of the session, 80,000 acres remained unexpended of former appropriations.

Thus it will be seen, that if the bills returned become laws, there will be appropriated 365,000 acres of internal improvement land, which at its minimum price is equal to \$456,250, all to be expended the present year, or at least contracts therefor are to be let, and the several works to be carried forward with diligence, as required by the terms of the several bills, with the unimportant exception applicable to the Southern Railroad.

In addition to the above specific appropriations of lands, there is appropriated by an act approved March 9, 1844, \$75,000 of the net proceeds of the Central Railroad to iron the same between Marshall and Kalamazoo. It is of the utmost importance that this appropriation be carried into effect.

The state also owes for iron purchased under former appropriations, and for expenses incurred on the Southern Railroad \$80,000, to be paid within the next four months. Besides \$60,000, in scrip to be provided for the present year, there will be payable at its close, for interest and arrearages of interest at least \$150,000.

The whole liabilities for the year as enumerated above, if the bills returned become laws, will amount to the enormous sum of \$821,250.00. The appropriations for labor and materials are far greater than can be judiciously expended on so many diverse works, greater even than would be warranted were the state free from embarrassment and the expenditures to be made in money.

The lands proposed to be appropriated are of the best quality, and as eligibly situated, and every way as desirable for settlement and cultivation as any other public lands in the United States. It is an entirely mistaken opinion that should they not be appropriated, they would not contribute to diminish the indebtedness of the state. It is quite possible that present holders of outstanding bonds and warrants may not wish to make investment in lands, yet such bonds and warrants will be sought by others for that purpose, and thus be cancelled. Within a reasonable time these lands will all be wanted and taken by immigrants and others at the minimum price fixed by law even though payment were required in gold and silver.

During the quarter ending March 1, 1844, before land scrip was issued at all, 1,500 acres more of these lands were sold than during the correspondent quarter of the present fiscal year. The bills propose to appropriate lands, but the appropriation of lands and the issuing of a negotiable land scrip upon estimates for work, is, in truth, but the anticipation of the means of the State at a great sacrifice, and should the amount of land scrip which is authorized by these bills be issued, in addition to the amount already authorized, its value would doubtless be so far depreciated that it would command but a mere nominal price. Though issued from time to time as the several works progressed, the result would be the same; the great surplus always in market would make permanent its depreciation. This depreciation would also be foreseen by contractors and quadruple prices would be required for all work. The property of the State, that, with discreet management, might be made available at its full value, would thus be frittered away without any commensurate benefit. But little progress would be made in advancing the several improvements contemplated, and no well founded hope could be entertained of accomplishing, at a future time, what was thus inauspiciously commenced.

No greater amount of land scrip or warrants should be issued in any given year than will probably be wanted during that year for the purchase of lands. Last year 80,000 acres were sold, and there is no reason to believe that more will be sold this. By provision of existing laws, warrants for 122,000 acres are authorized to be issued the present year, being an excess of warrants for 42,000 acres more than should be forced upon the market during that period. Such warrants now command no more than half their nominal value, and the depreciation consequent upon the increase proposed may be easily foreseen.

The argument sometimes used, that work and materials are obtained for depreciated warrants on terms as favorable to the State as they could be procured for money, is so absurd that it scarcely need be refuted. To obtain means to perform their contracts, the contractors, in

most cases, sell their warrants for the highest price they will bring in the market, and either the State pays for the work an increased price sufficient to make good the depreciation, or the contractor loses that depreciation. Few persons would claim to be so patriotic as to build railroads for the State for a compensation scarcely equal to one-half of the just value of their labor, and the truth is, that the State loses the difference between the nominal and the market value of funds paid out upon its public works. Some unimportant exceptions may exist; but the general truth of the remark will hardly be called in question by those acquainted with the subject.

The depreciated warrants paid out in past years, though receivable for land, have been mostly bought up on speculation, which shows conclusively, that the depreciation was lost by the State, and not by contractors. They took the contracts with the intention of selling the warrants to be received in payment, securing, doubtless, an increased price for their work that would compensate for depreciation; and such must ever be the ease in all future transactions of a similar character.

The means of the state has, at all times, been anticipated, and our works of internal improvement have, hitherto, been accomplished under great disadvantage. Work and materials could doubtless be now procured for ready money, at half the prices paid in former years.

The bills returned propose to appropriate more lands than the state has. At the close of the last fiscal year, a residue of 294,000 acres remained of the grant of September 4, 1841, liable to the disposal of the legislature, subject however, to enactments then existing, and relating to public lands. From the quantity then on hand deducting 6,000 acres appropriated for the construction of the Grand River bridge, 42,000 acres appropriated this session and 10,000 acres reserved to be taken in the upper peninsula including rejections from former selections, in all 58,000 acres and but 236,000 acres remain. The bills returned propose to appropriate 243,000 acres, being 7,000 more than the state possesses. The land in the upper peninsula for which application has already been made to the commissioner of the general land office, is valuable for other than purposes of cultivation, and can not be properly appropriated or disposed of by acres like other land. In each selection, which cannot be less than half a section, particular points only are valuable, and the residue comparatively worthless. When information is obtained of the success of the applications, special legislation will be required to designate the manner in which this land shall be disposed of.

Among the enactments subject to the conditions of which should be any legislation having for its object the disposal of all our public lands is "An act making appropriations upon the Central and Southern Railroads," approved February 21, 1843. This act authorizes the letting of

such an amount of contracts as will be paid for by one hundred and fifty thousand acres of internal improvement land; the warrants to be drawn upon the internal improvement fund, but the state to be in no way responsible for their payment until that fund shall be reimbursed by the sale of lands or by monies from other sources. As the internal improvement fund will not be reimbursed by monies from other sources, an appropriation of all the lands is a repudiation of the warrants issued under this act and yet outstanding. If the only substantial means pledged for their payment be otherwise applied, good faith requires that some other provision be made for their redemption, especially as the liability of the state is absolved except through the medium of the lands proposed to be appropriated.

Evidence of indebtedness is outstanding twice greater than the value of the lands at their minimum price, the holders of which are entitled to take the lands in payment. Should they so determine after contracts had been made under the proposed appropriation, which is not improbable, the confusion, difficulties and evils resulting would be almost incalculable, and among the latter, not the least, would be the creation of a debt in violation of the constitution.

The pay of engineers that would be required in carrying into effect the proposed appropriations, would not be less than twenty-five thousand dollars; and the bills make no provision upon the subject. Under present provisions of law, that sum must be taken from the net proceeds of public works, which are solemnly pledged to pay the interest on our public debt, and which, if diverted, must be replaced by increased taxation upon the people.

The bills make no provision to secure the right of way. In cases where the right of way cannot be secured by compromise, and such cases are not infrequent, the State possesses no means to make a lawful tender, unless recourse be had to the proceeds of the public works, already pledged for other objects.

The bill, proposing to appropriate 45,000 acres of land upon the southern railroad, seems to require that the grubbing, grading and bridging, to the amount of the appropriation, be extended from Hillsdale to Coldwater, and no provision is made for superstructure on any portion. The appropriation would be sufficient to procure but a small proportion of the work necessary to prepare the road for the iron, and the means of the State being exhausted, the work performed would soon become worthless.

The bill proposing to appropriate 140,000 acres of land upon the central railroad provides only for grubbing, grading and bridging the road. No means being held in reserve, the superstructure could not be procured when wanted, and the grading and bridging not being made available for use, would be a loss to the State.

Appropriations of lands upon the roads should be made with a view to revenue, and no more should be undertaken than can be accomplished. Every appropriation for an extension should provide for finishing a given portion of road ready for the iron; and in the procurement of that material sufficient difficulties will be experienced, when all other impediments are removed.

I am in favor of extending the roads, and shall ever advocate all proper measures for that purpose. I believe, however, the bills returned, while they would absorb the means of the State, should they become laws, would defeat the very object they are designed to effect, and render their extension at a future time, if not impossible, at least improbable.

While I am in favor of extending the roads, I may be permitted at the same time to say, that I think their revenue has often been over-estimated. The southern road has hitherto yielded no return for the investment made in its construction; but an extension, while it may not secure a net revenue equal to the interest upon the whole cost of the road, will increase that revenue by an amount greater than the interest upon the additional outlay, and at the same time, afford increased advantages to citizens in its vicinity and to the public.

In regard to the revenue upon the central road, I have no hesitation in expressing my belief, that finished to Kalamazoo or to St. Joseph, it will never yield a net annual profit exceeding six per cent upon the cost of its construction. The net annual proceeds of years past must not all be considered as net profits. A great portion of the road being comparatively new, allowance has not been made for repairs that ere long will be required for dilapidation now in progress, but yet not so far advanced as to require attention. All the bridges must be re-built within a few years, and the whole superstructure renewed. At the present moment iron to the amount of \$100,000 or more is wanted to lay anew the track between Detroit and Ann Arbor, and many other items of repairs are required and would be made if the means for that purpose were at command. Such repairs, though now postponed, must ultimately be made, and their cost will be, of course, a charge upon the receipts of the road.

It is highly probable, if not entirely certain, that to pay the interest upon our acknowledged public debt, when the same shall be adjusted upon the principles of the act of February 17, 1842, the revenue of the public works will not be sufficient, and that taxation will be indispensable. In my administration of public affairs, I have endeavored so to husband the resources of the state, that when this crisis arrived the burden of taxation would be as light as possible; and I cannot give my sanction to the bills returned, believing as I do, that should they become laws, they would interpose obstacles to the preservation of public

faith, and increase the taxation consequent upon a deficiency of revenue upon our public works.

The approval of the bills would prevent the completion of the Central railroad to Kalamazoo, the present year if not altogether. A large outlay has already been made upon this road between Marshall and Kalamazoo; it is now in a state of forwardness, and its immediate completion is of paramount importance. I doubt not, however, should the bills returned become laws, that land scrip would become so depreciated that contractors would in most instances abandon their contracts from inability to continue their work. I am also of opinion that the proposed appropriations would so far injure our credit abroad as to destroy all prospect and hope of obtaining the iron necessary to complete the road between the places mentioned.

The public can hardly appreciate the difficulties with which the board has had to contend for the last three years in constructing the public works, and particularly in obtaining iron and spike. To individual efforts and assurances, over and above the discharge of official duty, the state is much indebted for the procurement of iron laid upon the Central road west of Jackson, and upon the Southern, west of Adrian.

It is easy to suppose illimitable ability in the state, without the supply of commensurate means, but all legislation based upon such illusion, is likely to be injurious in its character. The present embarrassment of the state is a sufficient illustration of this; and the approval of the present bills would be but the continuation of a policy which should long ago have been abandoned.

Since this communication was prepared, contractors for furnishing the superstructure upon thirty-two miles of the Central Railroad between Marshall and Kalamazoo, have informed me that should the bills returned become laws, they would be compelled to abandon their contracts on account of the consequent depreciation of land warrants in which they are exclusively paid, and should petition the legislature for the fifteen per cent of their estimates withheld by the board.

JNO. S. BARRY.

MARYGROVE COLLEGE LIBRARY
Messages of the governors of Mic
353.9774 M58



3 1927 00116897 7

353.9774

M58

v. 1

